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**LAW 15/2015, OF 2 JULY,
ON NON-CONTENTIOUS PROCEEDINGS**

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LAW 15/2015, OF 2 JULY, ON NON-CONTENTIOUS PROCEEDINGS

PREAMBLE

I

The incorporation into our legal system of a Non-contentious Proceedings Act forms part of the general process of modernising the positive system for the protection of private law initiated more than a decade ago. The eighteenth final provision of Law 1/2000, of 7 January, on Civil Procedure, tasked the government with presenting a Non-contentious Proceedings Bill before the Spanish Parliament, a legal provision connected with constructing an advanced procedural system comparable to that which is exists in other countries.

With the Non-contentious Proceedings Act our procedural law achieves greater systematic coherence and rationality. Indeed, the centrality of the Civil Procedure Rules (Ley de Enjuiciamiento Civil) to our legal system, as a piece of legislation responsible for ordering the whole of civil proceedings and giving completeness to the procedural system as a whole, is hardly compatible with retaining in its articles certain matters which merit a different legal treatment, even where those matters would be heard by civil courts.

Those matters, it is generally accepted, include non-contentious proceedings. Their regulation within the Civil Procedure Rules, as has occurred in Spain since 1855, was the product of the historical inclination of our law towards compilation rather than the result of applying certain conceptual categories to the procedural area of law. For that reason, we have now chosen, as in the majority of the countries around us, to separate non-contentious proceedings from common procedural regulation,

maintaining the natural relationships of speciality and subsidiarity between them, which occur between regulations in any complex legal system.

Their regulation in an independent law at the same time implies acknowledgement of the conceptual autonomy of non-contentious proceedings within public legal activities involving the courts of justice as a whole.

II

The Non-contentious Proceedings Act is not only justified as one more element in a plan to rationalise our civil procedural law. Nor as a simple channel for making our legislation comparable to that of other countries. The Non-contentious Proceedings Act also stands out as a singular contribution to the modernisation of an area of our law which has not merited such detailed attention by legislators or legal scholars as other areas of judicial activity, but in which interests of great importance in relation to individuals and their property are at stake.

In other words, this Act is a response to the need for a new, suitable, reasonable and realistic legal system as regards non-contentious proceedings. In the previous regulations, it was not difficult to discern the passage of time, with regulatory defects and rules which were obsolete or lacked technical rigour. The partial reforms undergone up to now did not avoid the survival of provisions which were hardly compatible with current, more modern, organic and procedural institutions, which represented an obstacle to achieving the efficacy expected of any legal instrument which has to serve as a channel for mediating between members of the public and public authorities.

The Non-contentious Proceedings Act utilises the experience of legal professionals and opinion emanating from the courts and legal scholars to offer members of the public effective and simple means which make it easier to achieve certain legal effects promptly and respecting all the rights and interests involved.

III

The interests of the public are central to the objectives of this Act. Throughout its articles, simple and effective instruments are established which are suited to the social reality to which they are applied, wherever they require the involvement of the courts of justice through any of the non-contentious proceedings.

This argument alone would justify the legitimacy of any legal reform affecting the justice system and its organs, as their activity, like any public work where the existence and effectiveness of personal rights are at stake, must be suitable for achieving the desired effect by means that do not cause dissatisfaction or frustration among the interested parties. The Non-contentious Proceedings Act therefore provides the public with systematic, ordered and comprehensive regulation of the different proceedings contained in it, updating and simplifying the procedural rules relating to them, trying to opt for the least costly and quickest channel, with maximum respect for guarantees and legal certainty and taking particular care over the adequate organisation of its acts and institutions.

It is, then, a question of regulating non-contentious proceedings such that the public is protected with the degree of effectiveness required by a society which is ever more conscious of its rights and ever more demanding in relation to its public bodies. At times, the above objective is achieved by merely updating the steps which make up certain proceedings. At other times, that objective is achieved by simplifying, combining and harmonising its rules with those in other procedural or substantive regulations. In particular, special care has been taken to adapt the regulation of non-contentious proceedings to the principles, rules and general regulations contained in the Civil Procedure Rules, attempting to get round problems of interpretation and responding to certain legal gaps and contradictions.

This Act has been prepared at the same time as other reforms affecting the same regulations, such as the laws modifying the system of protection for infants and adolescents, which will change the way that the fostering and adoption of minors is regulated, among other matters. Its content must therefore be coordinated with those laws.

An effort has also been made to adapt it to the United Nations Convention on the Rights of Persons with Disabilities, signed in New York on 13 December 2006, affecting the terminology and in which the use of the terms incapable and incapacitation has been abandoned and replaced by reference to individuals whose capacity has been modified by a court.

IV

Operating as a channel for action and effectiveness in relation to certain rights regulated by the Civil Code, the Commercial Code and in special private law legislation, it is not difficult to deduce the secondary and auxiliary nature of non-contentious proceedings, although with substantial differences with regard to jurisdiction in its strict sense.

Non-contentious proceedings are connected with the existence of circumstances in which it is justified to set limits on the autonomy of the will in the area of private law, making it difficult to obtain a certain legal effect where that is justified by the importance of the matter affected, the nature of the interest at stake or its impact on the status of the interested or affected parties. And also with the impossibility of depending on the concurrence of individual wills necessary to constitute a certain right or give it effect.

The potentiality of such effects requires the judge to act, bearing in mind the authority which that role deserves as a definitive interpreter of the law, impartial, independent and essentially disinterested in the matters which are clarified before the court. These qualities make judges especially fit for work in which what is at stake is the rights of individuals.

It is, however, constitutionally acceptable, for reasons of political opportunity or practical utility, for the law to entrust other public bodies, distinct from the courts, with the protection of certain rights which, up to now, were firmly rooted in the sphere of non-contentious proceedings, where those rights do not directly affect fundamental rights or threaten the interests of minors or individuals requiring special protection, and that is what this Act has done.

V

Precisely on the basis of experience applying our non-contentious proceedings system, and considering the reality of our society and the different instruments therein for exercising rights, the debate about whether it would be appropriate to maintain the exclusivity of the courts of justice in this field - and, within them, of court staff with judicial authority - or whether it would be preferable to entrust other bodies or public officials with hearing them is not a new one.

In order to provide an ideal answer to the above questions, in line with the experience of other countries, but also bearing in mind our specific needs and aiming to make optimum use of available public resources, the Non-contentious Proceedings Act confers authority to hear a significant number of matters which were traditionally included under the rubric of non-contentious proceedings on legal professionals who are not invested with judicial authority, such as court clerks, notaries and property and commercial registrars, in general sharing out jurisdiction to hear them. Such professionals, who are both legal professionals and trusted public servants, are more than capable of handling, with complete effectiveness

and without any loss of guarantees, certain non-contentious proceedings which until now were entrusted to judges. Although the best guarantee of the public's rights is provided by the involvement of a judge, taking certain non-contentious proceedings without jurisdictional content, which are predominantly of an administrative nature, out of the hands of judges, does not jeopardise the fulfilment of the essential guarantees of protection of the rights and interests affected.

The legal solution provided is in keeping with the postulates of the Constitution and, moreover, appropriate in view of various factors. The prestige acquired with the public over the years by those bodies of officials is an element which helps to clear up any questions regarding their aptitude for involvement in the administrative protection of certain private rights, being principal actors in a system which is trusted by the public and guarantors of legal certainty, without forgetting the fact that the object of many non-contentious proceedings is to obtain certainty about the status or nature of certain transactions, situations or legal relationships, which such professionals are in an excellent position to adequately apprehend.

Together with the above, considering the organisational personnel and material means currently placed at their disposal, as well as the high degree of modernisation and specialisation reached by the public administration today, being professionalised, governed by the principles of objectivity, efficacy and the prohibition of arbitrariness and subject to the law according to the Constitution, likewise justify taking certain matters out of the hands of judges which until now were entrusted to them. This last point highlights the fact that today some of the reasons which historically justified entrusting non-contentious proceedings exclusively to judges are no longer valid; since, along with them, advanced societies now have other viable options for giving effect to private rights, where doing so requires the involvement or mediation of public bodies.

VI

By removing certain matters from the area of responsibility of judges, it is, then, only reasonable to expect benefits for all individuals involved in non-contentious proceedings: for members of the public, where the action of the state is required for the exercise of a certain right, insofar as it must result in greater effectiveness of their rights without any loss of guarantees; for court clerks, notaries and property and commercial registrars, on account of the new dimension given to them as public servants, consistent with their real technical qualifications and the important role which they play in legal acts; and, lastly, for judges, who can focus their efforts on

fulfilling the essential mission entrusted to them by the Constitution, as exclusive holders of judicial authority and ultimate guarantors of the rights of individuals.

The distribution of matters among such professionals has been done according to rational criteria, aiming, right from the start, to achieve maximum consensus among the groups involved, with the intention of making lasting changes, adapting to the current social reality and fully guaranteeing the rights and interests of those affected, in order to respond, in this part of the legal system as in others, to the challenge of more modern and effective justice.

The objective outlined in the initial plan was to assign each matter to the legal professional to whom, on account of their physical proximity or because it would guarantee the public a quicker response, it was advisable to give responsibility for hearing it; or to the professional who, according to the nature of the interest or right at stake, was constitutionally required to be responsible for handling the matter.

Ultimately, however, it was decided that, in general, that assignment would alternate between different professionals in certain specific matters which break away from the sphere of judicial authority. Jurisdiction will be shared between court clerks, notaries and registrars, which is possible in view of the fact that they are public servants and given the duties which they perform: court clerks and notaries are trusted public servants, judicial or otherwise, and registrars have direct and specialist knowledge in the area of property and commercial law, in particular in relation to companies.

The power which that gives the public to go to different professionals regarding matters which were traditionally the preserve of judges can only be interpreted as an expansion, by this Act, of the means at their disposal to guarantee their rights. It constitutes a guarantee for the public, which sees the service they receive optimised, as they are able to assess the different options offered to them to choose the one which best suits their interests. In no sense will the public lose out, as they can go to a court clerk, using the means which the Administration of Justice places at their disposal, or to a notary or registrar, in which case they will have to pay the relevant fees.

Given that the proceedings in question originate from the judicial sphere, certain prudent limits to the principle that the applicant is free to choose the notary are provided for, establishing territorial jurisdiction criteria which are reasonably connected to the individuals or property involved in the

proceedings. Nevertheless, progress is made towards making the rules on jurisdiction more flexible than those which currently exist in the judicial sphere.

VII

As regards proceedings which remain the responsibility of the courts, the criterion applied by the Non-contentious Proceedings Act is to make court clerks responsible for advancing and managing proceedings, entrusting the judge or the court clerk, as appropriate, with the decision on the substance of the matter and any other decisions expressly set out in this Act. The decision on the substance of the matter remains the responsibility of the judge in those proceedings which affect the public interest or the marital status of individuals, those which require specific action to protect substantive rules, those which could lead to acts of disposal or acknowledgement, the creation or extinguishment of subjective rights or where the rights of minors or those of individuals whose capacity has been modified by a court, using the new terminology referred to earlier, are at stake. Therefore, as a general rule, the judge is responsible for deciding non-contentious proceedings relating to individuals or family matters, as well as some proceedings relating to commercial matters and the law of obligations and succession which are not entrusted to court clerks, notaries or registrars.

VIII

As set out above, court clerks assume a role in keeping with their procedural duties since the entry into force of Law 13/2009, of 3 November, on the reform of procedural legislation to introduce the new judicial office. The provision contained in article 456 of the Organic Law on the Judiciary (Ley Orgánica del Poder Judicial), which grants the court clerk jurisdiction in non-contentious proceedings where procedural law provides for it, is thereby materialised, responding to the recommendations of various official documents (the 1986 Recommendation of the Council of Europe, the White Paper on Justice, prepared by the General Council of the Judiciary in 1997, and the National Compact for Justice Reform (Pacto de Estado para la Reforma de la Justicia), signed by the main parliamentary groups on 28 May 2001). This legal authorisation, however, must be made compatible with their important duties handling procedural elements of civil proceedings and managing the judicial office, which is also their responsibility. An effort has therefore been made to entrust court clerks with jurisdiction in non-contentious proceedings such that it is not detrimental to the carrying out of other important missions which are legally

their responsibility, taking particular care to make them responsible for deciding proceedings where they can best and most effectively serve the interests of the public.

Firstly, court clerks, will be responsible for advancing non-contentious proceedings as part of their procedural technical management duties, as well as for giving any interim decisions required. To carry out that task, they are legally entitled, as expressly provided in articles 438.3 and 5 of the Organic Law on the Judiciary, to use the common services of the judicial offices.

Court clerks are also going to be responsible for deciding some proceedings where the aim is to obtain a reliable record of the nature of a certain right or legal situation, provided that it does not imply acknowledgement of subjective rights: among proceedings relating to individuals, the appointment of a court-appointed guardian or the declaration of an individual as missing or dead meet these requirements.

Notaries and property and commercial registrars are entrusted with hearing those matters where their level of training and technical experience help the public to obtain a quicker response and make their rights more effective. Their involvement as a responsible public body, in the case of notaries, occurs in most acts related to wills and inheritance, such as the declaration of intestate successors or the certification and registration of wills, but also making offers of payment or accepting deposits and selling the goods deposited.

As court clerks and notaries are trusted public servants, judicial or otherwise, they are concurrently entrusted with handling and deciding certain inheritance proceedings, judicial consignment of monetary debts and also voluntary auctions.

The same concurrence occurs in the commercial area. The involvement of commercial registrars, together with court clerks, is justified by the specialist nature of those proceedings where they assume an important role.

Logically, in all of the cases in which jurisdiction is shared concurrently by various legal professionals, once proceedings have been initiated or definitively decided by one such professional, it will not be possible to initiate or continue other proceedings with the same purpose before another.

Nevertheless, insofar as the Non-contentious Proceedings Act takes certain proceedings out of the hands of judges altogether and entrusts them to notaries and property and commercial registrars, it is provided that members of the public who have to go to those professionals can obtain legal aid, to avoid situations in which it is impossible for them to exercise a right, which until now was free of charge, for lack of means.

IX

It is appropriate to make a few more observations regarding the position which this Act occupies within the system for the protection of private law and also regarding its internal structure. As part of the previously mentioned plan to rationalise and modernise the legal system, the Non-contentious Proceedings Act operates as a piece of general legislation in its specific area of regulation. That guarantees the completeness of the system and also the existence of rules applicable in every case, avoiding the existence of gaps.

The Non-contentious Proceedings Act contains common rules for handling proceedings of that nature which are regulated by law, whether heard by a judge or a court clerk, thereby giving internal consistency to its articles. That gives it a similar codifying tendency as, *mutatis mutandis*, Law 1/2000, of 7 January, had, at the time, in relation to contentious proceedings. Also, as is reasonable, those acts which, with the new regulation, are no longer the responsibility of the courts of justice are regulated outside this Act, in other regulations within the legal system which are given new wording in its final provisions.

With respect to its general characteristic features, the Non-contentious Proceedings Act begins by setting out a number of common rules pertaining to its area application, procedural assumptions for the judicial body and the parties and the handling of the proceedings. Those rules form a general procedure for non-contentious proceedings, applicable to each of those proceedings where there is no specific provision in the relevant individual regulations.

At times, to avoid duplication in the regulation of certain matters, the Act refers to civil or commercial legislation when certain proceedings are regulated it. It is a solution which fully respects the reality of our legal system, as, indeed, the regulation of some private law institutions explicitly states the procedure for obtaining the specific legal effect to which the Act refers. This solution is less disruptive than others, given that the opposite – which would consist in transferring all those rules from the substantive

law to this Act – would involve leaving numerous rules of the Civil Code and other regulations of our legal system empty of meaning. Prudence, which must always preside over any legal reform, requires some of those rules to be retained in their current place, without prejudice to the fact, in the future, legislative policy may advise other possible solutions.

X

The distribution of non-contentious proceedings among different legal professionals is also reflected in the structure of this Act. The criterion applied, respecting the systematic nature of legislation, is that of removing from its articles the regulation of all those proceedings which are handled outside the Administration of Justice, such that its text only regulates those proceedings where a judge or court clerk has jurisdiction.

Separately, proceedings entrusted to notaries and registrars are regulated in notarial and mortgage legislation respectively. The final provisions of this Act therefore introduce the relevant amendments to the Notaries Act 1862, of 28 May, to include the procedural handling of the proceedings entrusted to them. The consolidated text of the Mortgages Act (passed by the Decree of 8 February 1946) is not amended by this Act, except as regards article 14 as explained further on, but rather by the rules implementing the report by the Commission for the Reform of Public Administrations (Comisión para la Reforma de las Administraciones Públicas), approved by the Government Cabinet on 21 June 2013, in this case, in view of the importance of immediate coordination between the cadastre and the registry and of establishing the regulation of a bidirectional system of communication between the two institutions.

Having clarified that point, it should be noted that the rules of the Non-contentious Proceedings Act are made up of titles, which, in turn, are made of chapters and, occasionally, sections.

Its Preliminary Title, under the heading “General provisions”, contains rules regarding its scope of application, objective jurisdiction, locus standi and representation, involvement of the public prosecution service and the general criterion for taking evidence, among other important provisions. The Act defines its scope of application on a purely formal basis, without resorting to doctrinairism, mindful of the fact that its rules will only apply to non-contentious proceedings which, as provided by law, require the involvement of a court in civil and commercial law matters where there is no dispute requiring contentious proceedings; such a formula makes its scope easier to determine. Objective jurisdiction is generally conferred on

first instance or commercial courts, as appropriate, but the designation of the individual within the court responsible for deciding the proceedings is determined in the particular rules for those proceedings.

As regards representation and defence, the Act does not establish a general criterion, with the requirement or otherwise to involve a lawyer or a court lawyer being left to each specific case. Also of note is the inclusion of a general rule regulating the effects when non-contentious proceedings are pending, which prevents two or more proceedings with the same purpose being handled simultaneously or successively, with precedence being given to those initiated first. At the same time, when proceedings are decided it is denied the effect of preventing subsequent legal proceedings which may be brought with the same purpose and, in like manner, if it can be shown that non-contentious proceedings are pending regarding the subject matter of a claim which has been brought, that claim will be dismissed.

As regards its financial effects, the costs arising from non-contentious proceedings will be borne by the applicant, unless the law provides otherwise. As is reasonable, the transfer of the general objective criterion or the idea of winning civil proceedings to this area has been ruled out, given that, due to the nature of applications of this kind, the proceedings do not have winners or losers.

The two Chapters which make up Title I set out, respectively, the Act's rules relating to private international law (which establish the general criterion for international jurisdiction to hear proceedings, reference to private international law dispute rules and specific rules on the acknowledgement and effect in Spain of non-contentious proceedings decided by foreign authorities) and the general procedural rules, applicable to all the proceedings covered by the Act as regards anything not provided for by their specific regulations. Regarding the second point, proceedings are regulated taking a dynamic point of view, from their initiation until their decision, including rules on the consolidation of proceedings, the procedural handling of jurisdiction, acceptance of the application and the situation of the interested parties, holding oral hearings, deciding the proceedings and the rules on appeals, regarding which the Act refers, in general, to the provisions of the Civil Procedure Rules. A point to emphasise is that, unless the Act expressly provides otherwise, the filing of an opposition by any of the parties will not make the proceedings contentious, nor will it prevent them continuing until they are decided. The Act states that opposition to the removal of guardianship or to adoption makes those proceedings contentious.

Title II regulates non-contentious proceedings relating to individuals: in particular, proceedings to obtain judicial authorisation for the acknowledgement of kinship of children born out of wedlock, authorisation to appear in court and the appointment of a court-appointed guardian – the last two being entrusted to the court clerk – as well as adoption and matters relating to guardianship and de facto custody. This Title also includes proceedings for emancipation and benefiting from the age of majority as granted by a court, adopting measures to protect the assets of disabled individuals and obtaining judicial approval for consent given to legitimate interference with the rights of minors, or individuals whose capacity has been modified by a court, to reputation, privacy and their own image. This Title also regulates proceedings to obtain judicial authorisation or approval for disposals, encumbrances or other acts in relation to the goods and rights of minors or individuals whose capacity has been modified by a court; and, lastly, the procedure for establishing the existence of the donor's free and informed consent and other requirements relating to the removal and transplantation of organs from a living donor, such that it is consistent with the applicable national and international legislation. The fostering of minors is regulated separately in preparation for the procedure being taken out of the hands of judges in the future.

The current legal system for declaring the death of an individual has been modified to provide for group and immediate proceedings for all those individuals who are known to have been on board a ship or aeroplane which is known to have been involved in an accident, in order to provide a better solution to the problems and consequences arising for the relatives of residents in Spain who find themselves involved in an accident anywhere in the world where it is possible to be absolutely certain of their death. Locus standi is conferred solely on the public prosecution service, given the special nature of the matter, and different rules regarding jurisdiction are established according to whether the accident occurs in Spain or abroad.

Title III contains non-contentious proceedings relating to family matters and, among them, dispensation from the impediment due to the intentional death of the previous spouse, which until now was the responsibility of the Minister of Justice, proceedings relating to kinship in relation to marriage, judicial involvement with regard to adopting specific measures in the event of disagreement in the exercise of parental authority, or in the event of inadequate exercise of custodial authority or authority to administer the goods of a minor or an individual whose capacity has been modified by a court, and also proceedings for cases of marital disagreement and disagreement in the administration of goods owned jointly by both spouses.

The dispensation to marry on grounds of age has also been eliminated, the minimum age being raised from 14 to 16 years, in accordance with the proposal made by the Ministry of Justice and the Ministry of Health, Social Services and Equality.

Title IV regulates non-contentious proceedings entrusted to the courts in relation to succession: on the one hand, those which remain the preserve of judges, such as accountability in relation to executorship, authorising disposals by executors and authorising or approving the acceptance or repudiation of an inheritance in those cases where the law requires it; and, on the other hand, those which will be the responsibility of court clerks with jurisdiction shared with notaries, such as resigning as an executor or estate partitioner, extending the duration of either role, appointment of an estate partitioner and approval of the division of the inheritance carried out by the appointed partitioner. As already discussed, notaries will take responsibility for all other proceedings relating to succession.

Title V provides for proceedings relating to the law of obligations, in particular, for setting a time limit for the performance of obligations, where appropriate, which will be heard by a judge, and judicial consignment, which will be handled by a court clerk.

Title VI refers to non-contentious proceedings relating to rights in rem, made up of judicial authorisation for a life tenant to claim overdue loans forming part of the usufruct and by proceedings to define the boundaries of properties which are not registered with the Land Register, which will be the responsibility of a court clerk.

Title VII includes the regulation of voluntary auctions, to be carried out electronically by a court clerk.

Title VIII includes proceedings with regard to commercial matters entrusted to commercial court judges: production of books by persons required to keep accounts and judicial dissolution of companies. It also regulates those proceedings entrusted to court clerks with jurisdiction shared with commercial registrars, such as the calling of general meetings of shareholders or bondholders, reducing share capital, redeeming or disposing of interests or shares and appointing a liquidator, auditor or administrator. It also includes proceedings for the robbery, theft, loss or destruction of securities or the representation of shareholdings and the appointment of loss adjusters in relation to insurance contracts, for which notaries also have jurisdiction.

Lastly, Title IX contains the complete judicial regime for conciliation hearings, updating and transferring to this Act that which until now was set out in the previous Civil Procedure Rules, without prejudice to the fact that, exercising their free will, individuals have the option to obtain the agreements available to them, in those matters of interest to them, through other channels, acting alone or with the involvement of intermediaries or legal professionals, such as notaries or registrars.

XI

In conclusion, along with the general repealing provision and the additional provisions regarding the amendments and regulatory developments required by this Act, the relevant amendments to the Civil Code, the Commercial Code, the Civil Procedure Rules, the Civil Registration Act, the Notaries Act, the Mortgages Act and the law on chattel mortgages and security without displacement of the possession are included, in addition to the necessary amendments to the Public Authority Assets Act, the Insurance Contracts Act, the Companies Act, the law on protecting the assets of individuals with disabilities and the law regulating certain fees in the area of Administration of Justice and the National Institute of Toxicology and Forensic Science.

The aim of the amendments to the Civil Code is to adapt many of its rules to the new provisions contained in this Act, at the same time as introducing changes which affect how it is established that the requirements for marriage and for getting married have been met, as well as the regulation, outside the judicial sphere, of separation or divorce by mutual agreement between spouses having no children under the age of majority, entrusting court clerks and notaries with those duties, which until now were the responsibility of judges, and which also entail a reform of Law 20/2011, of 21 July, on Civil Registration, the Civil Procedure Rules and the Notaries Act.

New regulation of the grounds for debarment from succession is also introduced, as well as regulation with regard to the witnessing of wills, as it was deemed necessary to adapt such regulation to the new social reality and legislative developments in the criminal area.

Also very important is the new regulation of the certificate or proceedings prior to marriage contained in the Civil Code, which entrusts their handling to a court clerk, a notary or a register office official, or to a consul or diplomatic or consular official in charge of civil registration abroad, while the marriage ceremony may be held before a court clerk, a notary, a

diplomatic or consular official, a Justice of the Peace or a mayor or councillor delegated by that mayor. All of the foregoing is also in line with the process of diversifying the personal elements in relation to which the authorisation of certain acts is being implemented, allowing the Administration of Justice to focus on the fundamental work entrusted to it by the Constitution of judging and enforcing judgements.

The amendments in relation to marriage also entail changes brought in by Law 24/1992, of 10 November, approving the state cooperation agreement with the Spanish Federation of Protestant Religious Bodies (Federación de Entidades Religiosas Evangélicas de España), Law 25/1992, of 10 November, approving the state cooperation agreement with the Spanish Federation of Israelite Communities (Federación de Comunidades Israelitas de España) and Law 26/1992, of 10 November, approving the state cooperation agreement with the Spanish Islamic Commission (Comisión Islámica de España). Also, with regard to Law 25/1992, of 10 November, that federation's request for its name to be changed to the Spanish Federation of Jewish Communities (Federación de Comunidades Judías de España) has been addressed.

Likewise, in view of the religious pluralism of Spanish society and bearing in mind that they have now been recognised as having deeply rooted status, the Civil Code confers on those groups the right to hold religious marriage ceremonies with civil effects, placing them on an equal footing with other faiths already enjoying that right.

The Notaries Act provides for the reforms arising from the new powers conferred on notaries, notably the provision for claiming payment of monetary debts through a notary, where those debts are not disputed and where it is possible to obtain a voluntary receipt or, through proceedings, establish an extrajudicial enforceable order, which the debtor can challenge, in court, not only with regard to the payment, but also all those causes provided for in article 557 of the Civil Procedure Rules. It is not a payment or small claims procedure, but rather it follows Regulation (EC) No. 805/2004 of the European Parliament and of the Council, of 21 April, creating a European Enforcement Order for uncontested claims, excluding claims involving a consumer or service user or those arising from the Condominium Act (Ley de Propiedad Horizontal), on account of their particular characteristics, as well as those matters which, on account of their subject matter, cannot be provided for. This new procedure for claiming overdue and unpaid cash sums should contribute significantly to a major reduction in the number of matters appearing before the courts

each year, as it represents an alternative to claiming payment of debts in court proceedings.

The reforms of the Civil Code and the Notaries Act arising from the amendments relating to succession and, in particular, inheritance rights, have also led to the amendment of the Public Authority Assets Act. That has been done to give the government the power to declare the general state administration, the autonomous regions or other bodies intestate successor, a matter which is also taken out of the hands of judges, doing away with the traditional division of the estate assets into three parts and providing that one of them will be paid into the Treasury and the other two to social welfare. That also justifies the reform of article 14 of the Mortgages Act to recognise the certificate of knowledge (*acta de notoriedad*) for the declaration of intestate successors, the declaration by the government of the state or the autonomous regions as an intestate successor and the European Last Will Certificate, in addition to the will and the contract of inheritance, as conferring the right to hereditary succession for the purposes of the registry.

XII

The amendment of the Civil Procedure Rules also serves to update the procedure for the return of minors in cases of international abduction, in order to guarantee greater protection for minors and their rights. This reform reviews the legislative option of keeping this matter within the field of non-contentious proceedings and outside the scope of contentious family proceedings, as the proceedings in question have little to do with the rules relating to non-contentious proceedings. It is, therefore, now being regulated as a special procedure, independently substantive, following on from marriage procedures and procedures relating to minors in the Civil Procedure Rules. The reform also modernises the procedure, introducing substantial improvements, including interim measures and direct communication between judicial authorities.

This reform aims to achieve greater concentration of jurisdiction, conferring authority on the court of first instance with responsibility for family law in the capital of the province where the minor who has been unlawfully moved or held is located; or, if there is no such court, the court to which the case is allocated. It encourages specialisation to settle problems which arise in relation to such cases and, as a result, a higher quality and more effective judicial response.

XIII

Lastly, in relation to the current rules on succession to noble titles, section 3 of the sole transitional provision of Law 33/2006, of 30 October, on equality between men and women in the order of succession to noble titles, is amended. That provision establishes a transitional period in which the provisions indicated in that regulation apply retroactively, in connection with those administrative or judicial proceedings pending decision on the date that the law entered into force. In order to strengthen the principle of legal certainty, without altering the initial intention of the legislator, and in accordance with the provisions of sections 1 and 4 of the sole transitional provision, it is deemed necessary to amend the wording of its section 3 to clarify that the retroactivity which the law provides for only refers to proceedings which as at 27 July 2005 were pending decision, as well as those brought after that date but, in any event, before 20 November 2006, the date on which the law entered into force in accordance with the second final provision.

A necessary consequence of the passing and entry into force of the Non-contentious Proceedings Act must be the almost definitive repeal of the Civil Procedure Rules 1881, which have remained in force all these years with regard to non-contentious proceedings and conciliation hearings.

PRELIMINARY TITLE

GENERAL PROVISIONS

Article 1. *Purpose and scope of application.*

1. The purpose of this Act is to regulate those non-contentious proceedings which are handled by courts.
2. For the purposes of this Act, all those proceedings which require the involvement of a court to protect rights and interests in matters of civil or commercial law, where there is no dispute requiring contentious proceedings, are considered non-contentious proceedings.

Article 2. *Jurisdiction with regard to non-contentious proceedings.*

1. Courts of first instance or commercial courts, as appropriate, shall have jurisdiction to hear and decide non-contentious proceedings.
2. Territorial jurisdiction in relation to non-contentious proceedings shall be established according to the relevant rule in each case and may not be changed, whether by express or tacit submission.
3. Court clerks shall have responsibility for advancing and managing the proceedings and either a judge or a court clerk, as appropriate, shall be entrusted with deciding on the substance of the matter and any other decisions expressly set out in this Act.

When jurisdiction is not expressly conferred on either figure, a judge shall decide proceedings which affect the public interest, the marital status of individuals, those which require the protection of substantive rules or could lead to acts of disposal or acknowledgement, the creation or extinguishment of subjective rights, or which affect the rights of minors or individuals whose capacity has been modified by a court. All other proceedings shall be decided by a court clerk.

Article 3. *Locus standi and representation.*

1. Those having a legitimate right or interest, or who have legally been granted locus standi regarding the matter in question, may bring non-contentious proceedings or participate in them, without prejudice to the possibility of proceedings being initiated ex officio or at the request of the public prosecution service.

2. Both applicants and interested parties must be defended by a lawyer and represented by a court lawyer in those proceedings where it is required under this Act. Even when it is not required by law, parties may nevertheless be advised and represented by a lawyer and a court lawyer, respectively, if they so wish.

In any event, the involvement of a lawyer and a court lawyer shall be necessary to present appeals for judicial review which may be brought against any final decision issued during the proceedings, as well as from the moment an opposition is filed.

Article 4. *Involvement of the public prosecution service.*

The public prosecution service shall be involved in those non-contentious proceedings which affect the marital status or situation of an individual, or where the interests of a minor or person whose capacity has been modified by a court are threatened, and in those cases where it is expressly required by law.

Article 5. *Evidence.*

A judge or a court clerk, according to which figure has jurisdiction to hear the proceedings, shall decide regarding the admission of the evidence proposed and may order ex officio evidence in cases where there is a public interest, which affect minors or individuals whose capacity has been modified by a court, it is deemed advisable to clarify some important or deciding element of the matter or the law expressly requires it.

Article 6. *Simultaneous or subsequent handling of proceedings.*

1. When two or more proceedings with the same purpose are being handled at the same time, those which were initiated first shall continue and those proceedings initiated subsequently shall be dismissed.

The judicial regime on non-contentious proceedings contained in this section shall also apply to proceedings handled by notaries and registrars in those matters where they share jurisdiction with court clerks.

2. Non-contentious proceedings regarding subject matter which is being dealt with in legal proceedings may not be initiated or continue. Once it has been shown that the relevant claim has been filed, the proceedings shall be dismissed and the record of their content up to that point shall be sent to the court which is hearing the legal proceedings to be added to that record.

3. Proceedings shall be suspended where contentious legal proceedings whose outcome may be affected are shown to exist and the incident must be handled in accordance with article 43 of the Civil Procedure Rules.

Article 7. Costs.

Costs arising from non-contentious proceedings shall be borne by the applicant, unless the law provides otherwise.

Costs incurred by witnesses and experts shall be borne by whoever proposes them.

Article 8. *Supplementary status of the Civil Procedure Rules (Ley de Enjuiciamiento Civil).*

The provisions of the Civil Procedure Rules shall apply supplementally to non-contentious proceedings as regards anything not regulated by this Act.

TITLE I
**ON COMMON RULES WITH REGARD TO HANDLING
NON-CONTENTIOUS PROCEEDINGS**

CHAPTER I
RULES OF PRIVATE INTERNATIONAL LAW

Article 9. *International jurisdiction.*

1. Spanish courts shall have jurisdiction to hear non-contentious proceedings arising from international cases where the forums of international jurisdiction set out in the treaties and other international regulations currently in force for Spain exist.

In cases not regulated by such treaties and other international regulations, jurisdiction shall be determined by the existence of the forums of international jurisdiction set out in the Organic Law on the Judiciary.

2. In the event that, in accordance with the rules relating to international jurisdiction, Spanish courts have jurisdiction in relation to non-contentious proceedings, but it is not possible to decide which court has territorial jurisdiction in accordance with the criteria set out in this Act, it shall be the court of the place where those proceedings must produce their main effects or where they are enforced.

Article 10. *Law applicable to non-contentious proceedings in international cases.*

Spanish courts shall apply the law stated in European Union or Spanish regulations regarding private international law to non-contentious proceedings where they have jurisdiction.

Article 11. *Inclusion in public registers.*

1. Final decisions in non-contentious matters emanating from a judicial body may be included in Spanish public registers:

a) Once they have successfully undergone the exequatur procedure or procedure for incidental recognition in Spain. Until then they may only be registered provisionally.

b) By the official responsible for the relevant register, provided that official can establish that the requirements for doing so have been met.

2. Where the decision is not final, it shall only be registered provisionally.

3. The judicial regime set out in this article for decisions issued by foreign courts shall apply to decisions in non-contentious matters issued by authorities other than foreign courts, where, according to this Act, jurisdiction to hear those matters is conferred on courts.

Article 12. *Effects in Spain of non-contentious proceedings and decisions by foreign authorities.*

1. Final decisions in non-contentious matters by foreign authorities shall have legal effect in Spain and shall be included in Spanish public registers, once they have been successfully recognised in accordance with the provisions of current legislation.

2. The competent Spanish judicial body or public register official shall also have jurisdiction to grant incidental recognition in Spain to decisions in non-contentious matters by foreign authorities. Recourse to any prior specific procedure shall not be required.

3. Recognition in Spain of decisions in non-contentious matters by foreign authorities shall only be refused in the following cases:

a) If the decision was issued by a manifestly incompetent foreign authority. The foreign authority shall be deemed competent if the case has clear links with the foreign state whose authorities issued the decision. In any event, foreign authorities shall be deemed manifestly incompetent where the case affects a matter over which Spanish courts or authorities have exclusive jurisdiction.

b) If the decision was issued in manifest violation of the rights of defence of any of the parties.

c) If recognition of the decision would produce effects manifestly in conflict with Spanish public order.

d) If recognition of the decision would imply the violation of a fundamental right or public freedom under our legal system.

CHAPTER II
PROCEDURAL RULES

Article 13. *Application of the provisions of this chapter.*

The provisions of this chapter shall apply to all non-contentious proceedings insofar as they do not contradict the regulations which specifically regulate the proceedings in question.

Article 14. *Initiating proceedings.*

1. Proceedings shall be initiated ex officio, at the request of the public prosecution service or by an application filed by an individual having locus standi, containing the details and circumstances identifying the applicant and giving an address for the purposes of notices.

The application must then set out clearly and accurately what is sought, as well as a statement of the facts and the legal basis for the claim. Where appropriate, the application shall also be accompanied by any documents and reports which the applicant deems relevant to the proceedings, with as many copies as there are parties.

2. The application must contain the identifying details and circumstances of any individuals who may have an interest in the proceedings, as well as the address or addresses at which they can be summoned or any other details which make it possible to identify them.

3. When the involvement of a lawyer and a court lawyer is not required by law, the judicial office shall provide the interested party with a standard form for filing the application, in which case it shall not be necessary to specify the legal basis for what is sought.

The application may be filed by any means, including those provided for in the regulations on electronic access to the Administration of Justice by the public.

Article 15. *Consolidation of proceedings.*

1. The judge or court clerk, according to which figure has jurisdiction to hear the proceedings, shall order the consolidation of proceedings, either ex officio or at the request of the interested party or the public prosecution service, where the decision of one could affect another, or the proceedings

are connected in such a way that it could give rise to contradictory decisions.

The consolidation of proceedings may not be ordered where the decisions in those proceedings relate to different individuals.

2. The consolidation of non-contentious proceedings shall be governed by the provisions of the Civil Procedure Rules regarding the consolidation of fast track proceedings, with the following special features:

a) Where it is question of consolidating proceedings pending before the same judicial body, such consolidation must be requested in writing before the date set for the first appearance, with the relevant statements being made and a decision being issued regarding the matter.

b) Where the proceedings are pending before different courts, the interested parties must request such consolidation in writing from the court deemed to have jurisdiction at any time before the appearance. If the court to which the request is made does not agree to the consolidation, the disagreement shall, at all events, be settled by the common superior court.

3. Non-contentious proceedings may never be consolidated with contentious legal proceedings.

Article 16. *Ex officio assessment of lack of jurisdiction and other defects or omissions.*

1. Once an application to begin the proceedings has been filed, the court clerk must, *ex officio*, consider whether the rules regarding objective and territorial jurisdiction have been complied with.

2. Where the court clerk finds that there is no objective jurisdiction to hear the proceedings, he may, regarding those proceedings where he has jurisdiction, order their dismissal, after a hearing with the public prosecution service and the applicant. Otherwise, he must inform the judge, who shall decide as appropriate, after hearing the public prosecution service and the applicant.

The decision finding lack of jurisdiction must indicate the judicial body deemed competent to hear the proceedings.

3. Where the court clerk finds that territorial jurisdiction to hear the matter is lacking, he may, regarding those proceedings where he has jurisdiction,

refer them to the court he deems competent, after a hearing with the public prosecution service and the applicant. Otherwise, he must inform the judge, who shall decide as appropriate, after hearing the public prosecution service and the applicant.

4. The court clerk shall also consider whether there are any defects or omissions in the applications filed and, where appropriate, shall set a time limit of five days for their rectification. If that is not done within the time limit indicated, the court clerk shall regard the application as not having been filed and shall dismiss the proceedings in those cases where he has jurisdiction. Otherwise, he must inform the judge, who shall decide as appropriate.

Article 17. *Acceptance of the application and summoning of the parties.*

1. The court clerk shall decide regarding the application and, if he finds it inadmissible, shall issue a decree dismissing the proceedings or inform the judge, where the latter has jurisdiction to decide what is appropriate.

2. Once the application has been accepted, the court clerk shall summon those involved in the proceedings to appear, where any of the following circumstances arise:

- a) According to law, parties other than the applicant must be heard in the proceedings.
- b) Evidence must be given to the judge or the court clerk.
- c) The judge or the court clerk deem an appearance necessary to achieve a better a decision regarding the proceedings.

Where it is only necessary to hear the public prosecution service and it is not necessary to hear evidence, the public prosecution service shall issue its report in writing within ten days.

3. The parties shall be summoned at least five days before the appearance, informing them that they must attend with the evidence they intend to use. The summons shall be issued in the manner stipulated the Civil Procedure Rules, including a copy of the decision, the application and the accompanying documents.

If any of the parties wishes to file an opposition, they must do so with 5 days of the summons; it shall not make the proceedings contentious, nor shall it prevent them continuing until they are decided, unless the law

expressly provides otherwise. The opposition document shall be passed to the applicant immediately.

Article 18. *Appearance in court.*

1. The appearance shall take place before the judge or the court clerk, according to which figure has jurisdiction to hear the proceedings, within thirty days of the application being accepted.

2. The appearance shall be conducted according to the procedure stipulated in the Civil Procedure Rules for fast track hearings, with the following special features:

1. If the applicant does not attend the appearance, the judge or the court clerk, depending on which figure has jurisdiction to decide the proceedings, shall dismiss the proceedings, deeming the applicant to have withdrawn from them. If any of the other parties summoned does not attend, the appearance shall take place and the proceedings shall continue, without any more summonses or notices than are required by law.

2. The judge or the court clerk, according to which figure presides over the appearance, shall hear the applicant, the other parties summoned and the individuals required by law, and may decide, ex officio or at the request of the applicant or the public prosecution service, as appropriate, to hear anyone whose rights or interests may be affected by the decision regarding the proceedings. The participation of individuals with disabilities in terms which are accessible and comprehensible to them is guaranteed by means of the necessary means and support.

3. If procedural questions arise, including those relating to jurisdiction, which may prevent the valid continuation of the proceedings, the judge or the court clerk, having heard those in attendance, shall give a verbal decision at that time.

4. Where the proceedings affect the interests of a minor or an individual whose capacity has been modified by a court, any formalities relating to those interests which are ordered ex officio or at the request of the public prosecution service shall also be carried out at that time or, where that is not possible, within ten days.

The judge or the court clerk may decide to hear the minor or individual whose capacity has been modified by a court in a separate session, without the interference of other individuals, but with the public

prosecution service being able to attend. In any event, guarantees are provided regarding their ability to be heard under ideal conditions, in terms which are accessible and comprehensible to them and suited to their age, maturity and circumstances, receiving help from specialists where necessary.

Based on the examination, a detailed report shall be issued and, wherever possible, an audiovisual recording shall be made. If the examination takes place after the appearance, the relevant report shall be passed to the parties to enable them to make statements within five days.

5. At the appearance, once evidence has been given, the parties shall be allowed to present their conclusions orally.

6. The appearance shall be recorded on a medium suitable for recording and producing sound and images, in accordance with the provisions of the Civil Procedure Rules.

Article 19. *Deciding the proceedings.*

1. The proceedings shall be decided by means of an order or decree, according to whether the judge or the court clerk has jurisdiction, within five days of the end of the appearance or, if the appearance did not take place, of the final procedural step.

2. Where the proceedings affect the interests of a minor or individual whose capacity has been modified by a court, the decision may be based on any of the facts contained in the statements by the parties or the evidence, or which came to light at the court appearance, even if they have not been referred to by the applicant or by other parties.

3. Once non-contentious proceedings have been decided and once the decision is final, other non-contentious proceedings with the same purpose may not be initiated, unless the circumstances which gave rise to the first proceedings change. What is decided regarding those proceedings shall be binding on any subsequent proceedings connected with them.

That shall also apply with regard to proceedings handled by notaries and registrars in those matters where they share jurisdiction with court clerks.

4. A decision regarding non-contentious proceedings shall not prevent subsequent legal proceedings with the same purpose as those

proceedings, but the decision issued must state whether it affirms, amends or reverses what was decided in the non-contentious proceedings.

Article 20. *Appeals.*

1. An appeal for reversal may be lodged against interim decisions in non-contentious proceedings, under the terms stipulated in the Civil Procedure Rules. If the contested decision was issued during the court appearance, the appeal will be handled and decided orally at that time.

2. An appeal may be lodged against a final decision issued by the judge in non-contentious proceedings by any party who considers himself harmed by that decision, in accordance with the provisions of the Civil Procedure Rules. If the decision was issued by a court clerk, an appeal for judicial review must be brought before the competent judge, under the terms stipulated in the Civil Procedure Rules.

An appeal shall not have suspensive effects, unless the law expressly provides otherwise.

Article 21. *Limitation of the proceedings.*

1. Proceedings shall be deemed to have been abandoned where, despite being advanced ex officio, no action is taken by the parties within six months of the final notification.

2. The court clerk shall be responsible for declaring that the proceedings have expired.

3. Only an appeal for judicial review may be lodged against an order declaring expiry.

Article 22. *Compliance with and enforcement of the decision which concludes the proceedings.*

1. The enforcement of the final decision which concludes non-contentious proceedings shall be governed by the provisions of the Civil Procedure Rules and, in particular, articles 521 and 522; in any event, those actions required to implement the decision may be requested immediately.

2. If any of the proceedings referred to in this Act gives rise to a fact or act capable of being registered with the register office, a certified copy of the

relevant decision shall be issued for the purposes of its inclusion or registration.

If the decision is capable of being included in the land register, the commercial register or any other public register, an order must be issued, at the request of the party, for the purposes of its inclusion in that register. The order shall be sent electronically. The description by the registrars shall be limited to the jurisdiction of the judge or court clerk, the congruence of the order with the proceedings in which it was issued, the extrinsic formalities of the decision and the obstacles arising from the register.

TITLE II
**ON NON-CONTENTIOUS PROCEEDINGS WITH REGARD TO
INDIVIDUALS**

CHAPTER I
ON JUDICIAL AUTHORISATION OR APPROVAL
FOR THE ACKNOWLEDGEMENT OF KINSHIP
OF CHILDREN BORN OUT OF WEDLOCK

Article 23. *Scope of application.*

1. The provisions of this chapter shall apply in all cases where, in accordance with the law, the acknowledgement of kinship of children born out of wedlock requires judicial authorisation or approval in order to be valid.

2. An application requesting judicial authorisation must be filed where acknowledgement of a minor or individual whose capacity has been modified by a court as a child born outside of wedlock has been authorised by a sibling or a blood relative in the direct line of the parent and whose filiation is legally established.

3. Judicial approval shall be sought for the effective acknowledgement of a minor or individual whose capacity has been modified by a court as a child born outside of wedlock authorised by:

a) An individual who is not able to marry on grounds of age.

b) An individual who does not have the express consent of their legal representative or the support of either the guardian of the acknowledged individual or of the legally known parent, provided that individual has not been acknowledged in a will or within the time limit established for registering a birth.

c) The father, where the acknowledgement has taken place within the time limit for registering a birth and where it has been withdrawn at the request of the mother.

4. Judicial approval for the validity of the acknowledgement of kinship of children born out of wedlock must also be requested by an individual whose capacity has been modified by a court.

Article 24. *Jurisdiction, locus standi and representation.*

1. The court of first instance of the place where the acknowledged individual has their legal address shall have jurisdiction to hear these proceedings or, if the individual does not have their legal address in Spanish territory, the court of the place where the individual resides in Spanish territory. If the acknowledged individual does not reside in Spain, it shall be the court of first instance of the place where the parent requesting the acknowledgement has their legal address or where they reside.

2. The parent requesting the acknowledgement may bring these proceedings independently or with the assistance of their legal representative or guardian, as appropriate.

3. The involvement of neither a lawyer nor a court lawyer is mandatory for these proceedings.

Article 25. *Procedure.*

Once the application has been accepted by the court clerk, he will summon the applicant to appear and, where appropriate, the known parent, the legal representative or guardian of the acknowledged individual and the acknowledged individual, if sufficiently mature and, in any event, if over 12 years of age, as well as the descendants of the acknowledged individual, where that individual is deceased and has descendants, and anyone else deemed appropriate, as well as the public prosecution service.

Article 26. *Decision.*

1. The judge shall decide as appropriate regarding the acknowledgement in question, bearing in mind the discernment of the parent, the truth or authenticity of their claim, the verisimilitude of the parental relationship, without the need for comprehensive proof, and the interest of the acknowledged individual, where that individual is a minor or an individual whose capacity has been modified by a court.

2. In the case of the acknowledgement of a minor or an individual whose capacity has been modified by a court authorised by a sibling or blood relative in the direct line of the other parent, the judge shall only authorise

the establishment of the filiation where it is in the interest of the minor or individual whose capacity has been modified by a court. The judge shall invalidate that filiation if a public document is presented containing a statement on the matter by the acknowledged individual, made once they have reached full capacity.

3. A certified copy of that decision shall be sent to the relevant register office for registration.

CHAPTER II

ON AUTHORISATION TO APPEAR IN COURT AND THE APPOINTMENT OF A COURT-APPOINTED GUARDIAN

Article 27. *Scope of application.*

1. The provisions of this chapter shall apply in cases where the law requires the appointment of a court-appointed guardian for minors or individuals whose capacity has been modified by a court, or is to be modified, and, in any event, shall be requested:

a) Where, in some matter, there is a conflict of interest between minors or individuals whose capacity has been modified by a court and their legal representatives or guardian, except, where there is joint parental authority or guardianship, there is no such conflict with the other parent or guardian.

b) Where, for any reason, the guardian does not carry out their duties until the determining cause ceases to exist or where another individual is designated to hold the position.

c) Where it becomes apparent that an individual for whom a guardian must be appointed requires measures for the administration of their goods to be adopted, until a judicial decision is issued concluding the proceedings.

2. The provisions of this chapter shall also apply in cases requiring the authorisation and subsequent appointment of a court-appointed guardian. Authorisation shall be requested where an unemancipated minor or individual whose capacity has been modified by a court is being sued or needs to bring a lawsuit to avoid serious damage and any of the following circumstances exist:

a) The parents or guardian are absent, their whereabouts are unknown and there are insufficient rational grounds to believe they will soon return.

- b) Both parents or guardian refuse to represent or assist the minor or individual whose capacity has been modified by a court in court.
- c) The parents or guardian are in a situation where it is de facto impossible for them to represent that individual in court.

3. The provisions of the preceding section notwithstanding, a court-appointed guardian shall be appointed for minors or individuals whose capacity has been modified by a court, without the need for prior authorisation, to take legal action against their parents or guardian, or to seek non-contentious proceedings, where they have locus standi to do so, or to represent them when the public prosecution service seeks proceedings to have their capacity modified by a court. Such an application shall not be appropriate where the other parent or guardian, if there is such, does not have an interest opposed to the minor or individual whose capacity has been modified by a court.

Article 28. *Jurisdiction, locus standi and representation.*

1. The court clerk of the court of first instance where the minor or individual whose capacity has been modified by a court, or is to be modified, has their legal address or, failing that, their place of residence, shall have jurisdiction to hear these proceedings; or, where appropriate, that of the court of first instance which is hearing the matter requiring the appointment of the court-appointed guardian.

2. The proceedings shall be initiated ex officio, at the request of the public prosecution service or on the initiative of the minor or individual whose capacity has been modified by a court or any other individual acting in their interest.

3. The involvement of neither a lawyer nor a court lawyer is mandatory for these proceedings.

Article 29. *Effects of the application.*

From the moment the authorisation is applied for and until the court-appointed guardian accepts the role or a final decision is issued dismissing the proceedings, any limitation periods and time limits relating to the action in question shall cease to run.

In the event that the minor or individual whose capacity has been modified by a court, or is to be modified, has to appear in court as a defendant or has been left without procedural representation during the proceedings,

the public prosecution service shall assume their representation and defence until the court-appointed guardian is appointed.

Article 30. *Appearance and decision.*

1. The court clerk shall summon the applicant to appear, together with the parties named as such in the proceedings, anyone whose presence is deemed appropriate, the minor or individual whose capacity has been modified by a court, or is to be modified, if sufficiently mature and, in any event, if over 12 years of age, and the public prosecution service.

2. The decision agreeing to what has been requested shall appoint whoever the court clerk deems most suitable for the role as court-appointed guardian, establishing the powers to be conferred on that individual.

3. In the circumstances provided for in letter c) of section 1 of article 27, the certified copy of the decision appointing the court-appointed guardian shall be sent to the relevant register office for registration.

Article 31. *Cessation of the court-appointed guardianship and authorisation to appear in court.*

1. The court-appointed guardian must notify the judicial body when the grounds for their appointment disappear.

2. They must likewise notify the judicial body when any of the parents, representatives or guardian, as appropriate, offer to appear in court on behalf of the affected individual, or when the proceedings giving rise to the authorisation end.

Article 32. *Accountability and excusing and removing the court-appointed guardian.*

The provisions established for making an inventory, where appropriate, for excusing and removing guardians and for accountability when the role comes to an end shall apply to the court-appointed guardian and shall be handled and decided by the relevant court clerk.

CHAPTER III
ON ADOPTION

Article 33. *Jurisdiction.*

The court of first instance relating to the headquarters of the public body entrusted with the protection of the adoptee and, failing that, to the legal address of the adopter shall have jurisdiction in adoption proceedings.

Article 34. *Preferential status and representation.*

1. The handling of adoption proceedings shall have preferential status and shall be carried out with the involvement of the public prosecution service.
2. The assistance of neither a lawyer nor a court lawyer shall be mandatory.

Article 35. *Proposal by the public body and application by the adopter.*

1. The proceedings shall begin with the document proposing adoption lodged by the public body or with the adopter's application, where the adopter has locus standi.

2. The adoption proposal lodged by the public body shall, in particular, set out:

- a) The personal, family and social conditions and livelihood of the designated adopter or adopters and their relations with the adoptee, giving detailed grounds for choosing them.
- b) Where appropriate, when they have to give their assent or be heard, the last known legal address of the spouse of the adopter or of the individual with whom the adopter is joined in a sentimental relationship analogous to marriage, or of the parents, guardian, foster family or custodians of the adoptee.
- c) Whether any party has expressed their assent to the public body or in a public document.

3. In those cases where, in accordance with the provisions of article 176 of the Civil Code, a proposal by the public body is not required beforehand, the adopter's offer of adoption shall be submitted in writing, setting out the information contained in the preceding sections, as applicable, together with the statements and evidence showing that the circumstances required by that legislation apply to the adoptee.

4. The documents referred to in the preceding sections, the prior declaration of the adopter's suitability to exercise parental authority, issued by the public body, where appropriate, and whatever reports or documents are deemed appropriate, shall be submitted with the adoption proposal or offer.

Article 36. *Consent.*

In the proceedings, the court clerk shall summon the adopter or adopters and the adoptee, if over 12 years of age, to express their consent in the presence of the judge.

Article 37. *Assent and hearing.*

1. Those individuals indicated in section 2 of article 177 of the Civil Code must also be summoned to give their assent.

Those whose assent is necessary but have already given it at the start of the proceedings before the relevant public body or in a public document shall not be summoned, unless more than six months have elapsed since they did so.

2. If the parents wish the need for them to assent to the adoption to be recognised, they must make it clear in the proceedings. The court clerk shall order the proceedings to be suspended and shall grant a period of 15 days for the submission of the claim, which shall be heard by the same court.

Where the claim is submitted within the time limit, the court clerk shall issue a decree declaring the adoption proceedings contentious and shall order them to be handled in accordance with article 781 of the Civil Procedure Rules.

Where the claim is not submitted within the set time limit, the court clerk shall issue a decree declaring the procedure at an end and lifting the suspension of the adoption proceedings. Appeal for a judicial review of the decree may be made directly to the court. Once this decision is final, no subsequent claim shall be admitted from the same parties regarding the need for assent to the adoption in question.

3. Those individuals indicated in section 3 of article 177 of the Civil Code must also be summoned to be heard by the judge in the proceedings.

Article 38. Notices to appear.

1. If the legal address of those who must be summoned to appear is not stated in the adoption proposal or offer, the court clerk shall immediately take the appropriate steps to establish that address, in accordance with the provisions of article 156 of the Civil Procedure Rules, and shall summon them to appear before the judge within the following fifteen days, with due respect for confidentiality. The notice to the parents summoning them to appear must, where appropriate, state the circumstances which require them to be heard.

2. Notices to those who must give their assent or be heard shall include the warning that, where they have been summoned personally and do not appear, the proceedings shall continue without further notices. If they do not respond to the first notice and the summons was served in person, they will be summoned again to appear within the following fifteen days, with the warning that, even if they do not appear, the proceedings shall continue.

3. Where it is not has not been possible to establish the legal address or whereabouts of an individual who must be summoned, or, having been duly summoned and with the appropriate warnings, an individual does not appear, the procedure shall be dispensed with and the agreed adoption shall be valid, subject, where appropriate, to the right conferred on the parents by section 2 of article 180 of the Civil Code.

Article 39. Procedure.

1. The judge may order as many steps to be taken as he deems appropriate to make sure that the adoption is in the interests of the adoptee.

2. All proceedings shall be carried out with due respect for confidentiality, in particular avoiding the family of origin becoming aware of the adoptive family, except in the circumstances contained in sections 2 and 4 of article 178 and subject to the provisions of article 180 of the Civil Code.

3. If the application is contested, the proceedings shall become contentious and the court clerk shall summon the interested parties to a hearing, continuing in accordance with the provisions for fast track proceedings.

4. An appeal may be lodged against the order deciding the proceedings, which shall have preferential status, without having suspensive effects.

5. A certified copy of the final decision ordering the adoption shall be sent to the relevant register office for registration.

Article 40. *Procedure for excluding the adopter from tutelary duties and termination of the adoption.*

1. The judicial proceedings referred to in articles 179 and 180 of the Civil Code shall be carried out according to the relevant procedure as laid down in the Civil Procedure Rules and the decisions relating to them shall be sent to the relevant register office for registration.

2. During the proceedings, the judge, even *ex officio*, after hearing the public prosecution service, shall order the appropriate measures to protect the person and goods of the adoptee, where the adoptee is a minor or an individual whose capacity has been modified by a court.

3. Where the adoptee is of legal age, termination of the adoption shall require the express consent of the adoptee.

Article 41. *International adoption.*

In cases of international adoption, the provisions of article 9.5 of the Civil Code and the provisions of Law 54/2007, of 28 December, on international adoption, shall apply, as well as the relevant provisions of the international treaties and conventions to which Spain is a signatory, in particular, the Hague Convention of 29 May 1993, on the protection of children and cooperation in respect of international adoption.

Article 42. *Conversion of simple or incomplete adoption into full adoption.*

1. The adopter in the case of simple or incomplete adoption constituted by a competent foreign authority may ask the Spanish courts to convert it into adoption regulated by Spanish law where any of the following circumstances arise:

- a) The adoptee has their habitual residence in Spain at the time the adoption is constituted.
- b) The adoptee has been or is going to be moved to Spain in order to establish their habitual residence in Spain.
- c) The adopter is a Spanish citizen or has their habitual residence in Spain.

2. The adopter must submit the application for full adoption, without the need for a prior proposal from the public body, setting out the information contained in article 35, as applicable. The application must be accompanied by the document from the foreign authority constituting the adoption and evidence showing that the required circumstances apply to the adoptee.

3. Once the application has been submitted, the procedure established in the preceding articles shall be followed, as applicable, with the judge being required to establish that the requirements set out in the International Adoption Act have been met.

4. In any event, the adopter or adopters and the adoptee, if over twelve years of age, must express their consent before the judge. Where the adoptee is under that age, they shall be heard in accordance with their age and maturity.

The spouse of the adopter or the individual with whom the adopter is joined in a sentimental relationship analogous to marriage must give their assent.

5. A certified copy of the order declaring the conversion of the simple or incomplete adoption into full adoption shall be sent to the relevant register office for registration.

CHAPTER IV

ON GUARDIANSHIP AND DE FACTO CUSTODY.

Section 1. Common provision

Article 43. *Jurisdiction and representation.*

1. The court of first instance for the legal address or, failing that, for the place of residence of the minor or individual whose capacity has been modified by a court shall have jurisdiction to hear these proceedings.

2. The judicial body which hears proceedings relating to guardianship or de facto custody shall have jurisdiction to deal with all subsequent incidents, procedures and measures to be adopted, provided that the minor or individual whose capacity has been modified by a court resides in the same district. Otherwise, to deal with any such incident, a full statement of the proceedings must be requested from the court which previously heard them, to be sent within ten days of the request.

3. The involvement of neither a lawyer nor a court lawyer shall be mandatory in these proceedings, except as concerns the removal of the guardian, where the involvement of a lawyer shall be required.

Section 2. On guardianship

Article 44. Scope of application.

The provisions of this section shall apply to the constitution of guardianship, provided that such constitution is not requested in legal proceedings to modify an individual's capacity.

Article 45. Procedure, decision and appeal.

1. The proceedings shall be initiated by means of an application setting out the circumstances giving rise to the guardianship, accompanied by the documents proving locus standi to bring the proceedings and indicating the closest relatives of the individual in relation to whom the guardianship is to be constituted, together with their legal addresses. It must also be accompanied by the birth certificate of the proposed ward and, where appropriate, the parents' last will certificate, their will or a notarial public document executed by them providing for the guardianship of any children under the age of majority or whose capacity has been modified by a court, or a notarial public document executed by the proposed ward providing for their own guardianship.

2. The instigator of the proceedings, the proposed guardian, if that is someone other than the instigator, the proposed ward, if over 12 years of age, or under that age if sufficiently mature, their closest relatives, the public prosecution service and anyone else deemed appropriate shall be heard at the court appearance.

Both the judge and the public prosecution service shall act *ex officio* in the interests of the minor or individual whose capacity has been modified by a court, adopting and proposing such measures, formalities, expert reports and evidence as they deem appropriate.

3. The judge shall appoint a certain individual or certain individuals as guardian, in accordance with the provisions of the Civil Code.

4. The decision ordering the appointment of the guardian shall adopt the supervision measures in respect of the guardianship established by the parents in their will or a notarial public document, or by the ward in a

notarial public document executed on the matter, unless it is in the interests of the ward to do otherwise.

In the absence of provisions, or where such provisions were not established in the interests of the ward, ex officio or at the request of the public prosecution service or the applicant, the judge, in the decision constituting the guardianship or in a subsequent one, may order the appropriate monitoring and control measures, in the interests of the ward, as well as requiring the guardian to report on the personal situation of the minor or person whose capacity has been modified by a court and the situation regarding the administration of their goods. If such measures are adopted in a subsequent decision, the guardian, the ward, if sufficiently mature and, in any event, if over 12 years of age, and the public prosecution service shall be heard beforehand.

5. The judge, in the decision constituting the guardianship or in a subsequent one, may require the guardian to provide some form of security to ensure they comply with their obligations and, in that case, must determine the form and amount of that security.

The judge, ex officio or at the request of the interested party, may also subsequently revoke the security provided, or modify it, in full or in part, after hearing the guardian, the ward, if sufficiently mature and, in any event, if over 12 years of age, and the public prosecution service.

6. The decision issued may be appealed without having suspensive effects.

During the appeal proceedings, the care of the minor or individual whose capacity has been modified by a court and the administration of their estate, as appropriate, shall remain the responsibility of the appointed guardian, with such guarantees as the judge deems sufficient.

Article 46. *Provision of security, accepting and holding the position.*

1. Once the decision constituting the guardianship is final, the appointed individual shall be summoned to appear within fifteen days to provide the security stated to guarantee the ward's estate, where appropriate, and accept or refuse the position.

2. Once the security has been provided, if required, the judge shall declare it sufficient and, in the same decision, shall order the registrations, deposits, measures or formalities he deems advisable to make the security

effective and protect the goods of the minor or individual whose capacity has been modified by a court.

3. Once the required formalities have been carried out, the appointed individual shall, in an official record executed before the court clerk, accept the obligation to carry out his duties in accordance with the law; the court clerk shall then formally appoint the guardian, conferring on him the powers established in the judicial decision ordering his appointment and giving him certification of that decision.

4. Where the appointed individual is appointed as guardian or administrator of his ward's goods, he shall be required to submit an inventory of the ward's goods within sixty days. Until the goods inventory is approved, where appropriate, the care of the minor or individual whose capacity has been modified by a court and the administration of their estate, as appropriate, shall remain the responsibility of the appointed individual, with such guarantees as the judge deems sufficient.

5. The court ordering the guardianship shall send a certified copy of both the decision issued and the official record of appointment to the relevant register office for the appropriate purposes.

Article 47. *Making an inventory.*

1. Where the appointed individual has been appointed as administrator of the ward's estate, he shall, within the given time limit, submit the goods inventory, which must contain a list of the ward's goods, as well as any important deeds, documents and papers. The court clerk shall then set a day and time for making the inventory and shall summon the interested parties, those affected, if sufficiently mature and, in any event, if over 12 years of age, and the public prosecution service.

2. Should any dispute arise regarding the inclusion or exclusion of goods in or from the inventory, the court clerk shall summon the interested parties to a hearing, continuing in accordance with the provisions for fast track proceedings, and the making of the inventory shall be suspended until that dispute has been resolved.

The decision issued on the inclusion or exclusion of goods in or from the inventory shall safeguard the rights of third parties.

3. Where there is no objection, or any dispute having been resolved, the court clerk shall approve the inventory and the appointed individual must

then administrate it in accordance with the terms stated in the judicial decision.

Article 48. *Payment for the position.*

1. If the guardian requests payment to be provided for and it was not agreed in the decision appointing him, the judge shall order it, provided that the ward's estate can afford it, and shall decide on the amount and the manner of payment, bearing in mind the work to be done and the yield of the goods, after hearing the applicant, the ward, if sufficiently mature and, in any event, if over 12 years of age, the public prosecution service and anyone else he deems appropriate. Both the judge and the parties or the public prosecution service may propose such formalities, expert reports and evidence as they deem appropriate.

The order referred to in this article shall be implemented without prejudice to any appeal, which shall not have suspensive effects.

2. The same procedure shall be followed to alter or end such payment.

Article 49. *Removal.*

1. In the cases provided for in the Civil Code, the removal of the guardian may be ordered, ex officio, at the request of the public prosecution service, the ward or any other interested party, after a court appearance, at which the guardian, the individual who is going to replace them in the role, the ward, if sufficiently mature and, in any event, if over twelve years of age, and the public prosecution service shall also be heard.

If the application is contested, the proceedings shall become contentious and the court clerk shall summon the interested parties to a hearing, continuing in accordance with the provisions for fast track proceedings.

2. During the removal proceedings, the judge may suspend the guardian from their duties and the court clerk shall assign a court-appointed guardian to the ward.

3. The judge shall decide as appropriate, appointing a new guardian in accordance with civil legislation and sending the relevant notification to the register office.

Article 50. Refusal.

1. Where any of the grounds provided for in the Civil Code for refusing guardianship arise, the guardian must raise them within fifteen days of becoming aware of their appointment. If the grounds for refusal arise while in the role, they may raise them at any time, except where the guardian is a incorporated entity, provided that there is someone in a comparable situation to replace them.

2. The guardian's refusal may be accepted after a court appearance at which the individual refusing the role, the individual who is going to replace them in the role, the ward, if sufficiently mature and, in any event, if over 12 years of age, and the public prosecution service must be heard.

3. During the proceedings, the individual seeking to relinquish the role shall be obliged to carry out their duties and, if they do not do so, a court-appointed guardian shall be assigned to replace them, the replaced individual remaining responsible for any costs incurred by the refusal if it is rejected.

4. If the refusal is accepted, a new guardian shall be appointed, and, where appropriate, the relevant notification shall be sent to the register office.

Article 51. Accountability.

1. Each year, from when they accept the role, within twenty days of the end of the relevant period, the guardian must submit a report on the personal situation of the minor or individual whose capacity has been modified by a court and an account of the administration of their goods, where appropriate.

2. Once the reports have been submitted, the court clerk shall summon the guardian, the ward, if sufficiently mature and, in any event, if over 12 years of age, other interested parties and the public prosecution service to appear before the judge, where any formalities and evidence deemed appropriated may be proposed *ex officio* or at the request of any of the parties.

3. After that, whether or not there is any objection, the judge shall decide regarding the annual reports and accounts.

4. These provisions shall apply to the submission of a final account due to the termination of the guardianship, which must be submitted, where appropriate, within three months of the role coming to an end; where there are reasonable grounds, that period may be extended for as long as necessary. In such cases, where appropriate, the new guardian and the heirs of the ward, as appropriate, shall also be heard.

5. In any event, the process of judicial approval of the accounts submitted shall not prevent those actions being carried out which may mutually assist the guardian and the ward, or their successors in interest, on grounds of the guardianship.

Section 3. On de facto custody

Article 52. *Summoning and control measures.*

1. At the request of the public prosecution service, the individual subject to custody or anyone having a legitimate interest, the judge, being aware of the existence of a de facto custodian, may summon them to report on the personal situation and the goods of the minor or individual whose capacity has been modified, or is to be modified, by a court and their actions regarding those things.

2. The judge may establish the control and monitoring measures them deem appropriate, without prejudice to proceedings being brought to constitute guardianship. Such measures shall be adopted after an appearance to which the individual affected by the de facto custody, the custodian and the public prosecution service shall be summoned.

CHAPTER V

ON EMANCIPATION AND BENEFITING FROM THE AGE OF MAJORITY AS GRANTED BY A COURT

Article 53. *Jurisdiction, locus standi and representation.*

1. The judge of first instance for the legal address of the minor shall have jurisdiction to hear an application for emancipation made by an individual over 16 years of age and subject to parental authority, where any of the circumstances provided for in article 320 of the Civil Code apply to that individual; in particular:

- a) When whoever exercises parental authority marries or lives as if married with an individual distinct from the other parent.

- b) When the parents live separately.
- c) When any situation arises which severely hinders the exercise of parental authority.

2. The judge of first instance for the legal address of the minor shall have jurisdiction to hear an application to benefit from the age of majority made by an individual over 16 years of age and subject to guardianship, in accordance with the provisions of article 321 of the Civil Code.

3. The involvement of neither a lawyer nor a court lawyer shall be mandatory for these proceedings, unless an objection is lodged, in which case the assistance of a lawyer shall be mandatory from that point.

Article 54. *Application.*

1. The proceedings shall be initiated by means of an application to the court by the minor over 16 years of age, with a parent whose parental authority has not been removed or suspended or guardian in attendance. In the absence of any of the foregoing individuals, the minor shall be assigned a court-appointed guardian to request the proceedings. The public prosecution service shall assume the representation and defence of the minor until the court-appointed guardian is appointed.

2. The application shall be accompanied, where appropriate, by the documents proving the existence of the circumstances required by the Civil Code for requesting emancipation or to benefit from the age of majority, as well as any evidence deemed relevant.

Article 55. *Procedure and decision.*

1. Once the court clerk has accepted the application, he shall summon the minor, his parents or, where appropriate, his guardian, the public prosecution service and any other interested party to appear before the judge, where they shall be heard in that order. Subsequently, any evidence offered and accepted shall be examined.

2. The judge, taking into consideration the justification offered and assessing the minor's interest, shall decide, granting or refusing the emancipation or benefit from the age of majority requested.

3. A certified copy of the grant of emancipation or benefit from the age of majority shall be sent to the relevant register office for registration.

CHAPTER VI

ON PROTECTING THE ASSETS OF DISABLED INDIVIDUALS

Article 56. *Scope of application.*

1. The rules of this chapter shall apply to any of the court proceedings provided for in chapter I of Law 41/2003, of 18 November, on protecting the assets of disabled individuals and, in particular, to:

- a) Setting up protected assets for individuals with disabilities or approving contributions to those assets where the parents or guardian of the disabled individual unjustifiably refuse to give their consent or assent.
- b) Appointing an administrator where it cannot be done in accordance with the constituting instrument.
- c) Establishing exemptions to the requirement for the administrator to obtain judicial authorisation or approval for disposals, encumbrances or other acts in relation to the property and rights making up the protected goods of disabled individuals.
- d) Replacing the administrator, changing the rules of administration, establishing special supervision measures, adopting precautionary measures, extinguishing the protected assets or any other measure or a similar nature which may be necessary after setting up the protected assets.

Article 57. *Jurisdiction, locus standi and representation.*

1. The court of first instance for the legal address or, failing that, for the place of residence of the disabled individual shall have jurisdiction to hear these proceedings.

2. Only the public prosecution service has locus standi to bring the proceedings regulated in this chapter, acting either ex officio or at the request of any individual, and must be heard in all court proceedings relating to protected assets.

3. Interested parties shall not require either a lawyer or a court lawyer to take part in the proceedings.

Article 58. *Application, procedure and decision of the proceedings.*

1. The proceedings shall be initiated by means of an application in writing by the public prosecution service containing the identifying details and circumstances of the disabled individual, their representatives or guardian, as appropriate, and any other parties having an interest in the matter, together with the legal address or addresses at which they may be summoned and the relevant facts and other statements.

2. The procedure shall comply with the general rules of procedure provided in this Act.

3. The judge shall issue a decision in the interests of the disabled individual.

If the decision establishes the constitution of protected assets for a disabled individual, it must contain, as a minimum, an inventory of the goods and rights which initially constitute the protected assets, the rules for administering and, where appropriate, supervising them, as well as the procedures for appointing the individuals who make up the administrative or, where appropriate, supervisory bodies.

4. The decision may be appealed with suspensive effects, except where it appoints an administrator of the protected assets on the grounds of it not being possible to appoint anyone in accordance with the rules laid down in the public document or the constituting judicial decision.

5. If the decision issued by the judge constitutes protected assets and the appointed administrator is not the beneficiary of those assets, the decision must be notified to the relevant register office for registration, together with any other circumstances relating to the protected assets and the appointment of, or changes to, the administrators of those assets.

Likewise, a certified copy of the decision must be given to the party for inclusion in the relevant registers where the goods which make up the protected assets are registrable, or to the management bodies of collective investment vehicles or commercial enterprises where the assets are holdings or shares in those entities.

CHAPTER VII

ON THE RIGHT OF A MINOR, OR AN INDIVIDUAL
WHOSE CAPACITY HAS BEEN MODIFIED BY A COURT,
TO REPUTATION, PRIVACY AND THEIR OWN IMAGE.

Article 59. *Scope of application, jurisdiction, locus standi and representation.*

1. The provisions of this chapter shall apply to obtaining judicial authorisation for consent to legitimate interference within the scope of protection defined by article 3 of Organic Law 1/1982, of 5 May, on civil protection of the right to reputation, personal and family privacy and one's own image, where the public prosecution service has objected to consent granted by the legal representative of a minor or individual whose capacity has been modified by a court.
2. The court of first instance for the legal address or, failing that, for the place of residence of the minor or individual whose capacity has been modified by a court shall have jurisdiction to hear these proceedings.
3. The legal representative of the minor or individual whose capacity has been modified by a court has locus standi to bring these proceedings and the involvement of neither a lawyer nor a court lawyer shall be mandatory.

Article 60. *Procedure and decision.*

1. The proceedings shall be initiated by means of an application which must be accompanied by the planned consent, the document recording the public prosecution service's objection and the documents proving the applicant is authorised to act.
2. Once the court clerk has accepted the application, he shall set a day and time for the appearance, to which he shall summon the public prosecution service, the legal representative of the minor or individual whose capacity has been modified by a court and that individual, if the judge thinks it necessary. The judge, ex officio or at the request of the public prosecution service, may also order other interested parties to be summoned, where appropriate.
3. The judge shall issue a decision at the end of the appearance or, if the complexity of the matter justifies it, within five days, bearing in mind the best interest of the minor or individual whose capacity has been modified by a court.

4. An appeal may be lodged against this decision, with suspensive effects, which shall be decided as a matter of priority.

5. If the legal representatives of the minor or individual whose capacity has been modified by a court wish to revoke the judicially granted consent, they must bring that fact to the attention of the judge, who shall issue a decision rendering it void.

CHAPTER VIII

ON JUDICIAL AUTHORISATION OR APPROVAL FOR DISPOSALS, ENCUMBRANCES OR OTHER ACTS IN RELATION TO THE GOODS AND RIGHTS OF MINORS AND INDIVIDUALS WHOSE CAPACITY HAS BEEN MODIFIED BY A COURT

Article 61. *Scope of application.*

The provisions of this chapter shall apply in all cases where, in accordance with the Civil Code or Law 41/2003, of 18 November, on protecting the assets of individuals with disabilities, the legal representative of a minor or individual whose capacity has been modified by a court, or the administrator of protected assets, needs judicial authorisation or approval to validate disposals, encumbrances or other acts in relation to the goods or rights or protected goods of that individual, except where a specific procedure has been established.

Article 62. *Jurisdiction, locus standi and representation.*

1. The court of first instance for the legal address or, failing that, for the place of residence of the minor or individual whose capacity has been modified by a court shall have jurisdiction to hear these proceedings.

2. Authorised legal representatives of the minor or individual whose capacity has been modified by a court may bring these proceedings in order to carry out the legal transaction in question, together with the guardian or court-appointed guardian, where appropriate, or the subject of the guardianship, if they are not barred from doing so.

Where it is a matter of the administration of certain goods or rights, with specific powers over them, conferred free of charge by the transferor to someone who is not a legal representative of a minor or individual whose capacity has been modified by a court, or where the guardianship or the individual and of the goods are exercised separately, the administrator

appointed by the transferor or the guardian of the goods must request the authorisation, if required.

Where the transaction concerns protected goods, their administrator shall have *locus standi*.

3. The involvement of neither a lawyer nor a court lawyer shall be mandatory, provided that the value of the transaction for which the proceedings are requested does not exceed 6,000 euros; otherwise their involvement shall be required.

Article 63. Application.

1. The application must set out the grounds for the transaction in question, giving reasons for its need, usefulness or advisability; the good or right referred to must be precisely identified; and, where appropriate, the purpose for which the sum obtained must be used must be stated.

The application must be accompanied by the documents and information necessary to make a precise judgement regarding the transaction in question and, where appropriate, the operations to partition the inheritance or divide the joint property.

2. In the case of authorisation to reach a settlement, the document setting out the bases for the settlement must also accompany the application.

3. Where the application is to carry out a disposal, the application may also include a request for the authorisation to be extended to conducting a direct sale, without the need for an auction or the involvement of a specialist individual or entity. In that case, it must be accompanied by an expert report assessing the market value of the good or right in question and must specify the other terms of the intended disposal.

Article 64. Procedure.

1. Once the court clerk has accepted the application, he shall summon the public prosecution service to appear, together with all those individuals required by law, according to the different cases, and, in any event, the affected individual, if sufficiently mature and over 12 years of age.

2. Where an expert report is appropriate, it shall be issued before the court appearance takes place and the expert or experts who issued it must

be summoned to appear, if required, to answer any questions which the parties and the judge may ask them.

Article 65. *Decision.*

1. The judge, taking into consideration the justification offered and assessing its advisability in the interests of the minor or individual whose capacity has been modified by a court, shall decide, either granting or refusing the authorisation or approval requested.

2. The authorisation to sell goods or rights shall be granted subject to the sale taking place at public auction after an expert report assessing their value, except where authorisation has been requested for a direct sale or a sale through a specialist individual or entity, without the need for an auction, and the judge has authorised it.

An exception is made where the assets in question are shares, bonds or other securities admitted to trading on secondary markets, in which case the judge shall order them to be sold in accordance with the laws governing those markets.

3. In the case of authorisation requested to reach a settlement, if it is granted by the judge, he shall order a certified copy of his decision to be issued to the applicant for the appropriate purpose.

4. Where any encumbrance of goods or rights belonging to the minor or individual whose capacity has been modified by a court is authorised, or the extinguishment of rights in rem relating to those assets or rights, the judge shall order the same formalities to be followed as are established for a sale, except for the auction.

5. An appeal may be lodged against the decision and with suspensive effects.

Article 66. *Use of the amount obtained.*

The judge may adopt the measures necessary to ensure that the sum obtained from the disposal or encumbrance, or from entering into the authorised transaction or contract, is used for the purpose in view of which the authorisation was granted.

CHAPTER IX

ON DECLARING A PERSON MISSING AND DEAD

Article 67. *Scope of application.*

The rules of this chapter shall apply to the court proceedings provided for in Title VIII of Book I of the Civil Code relating to the disappearance of a person and the declaration of a person as missing or dead.

Article 68. *Jurisdiction, locus standi and representation.*

1. In proceedings to declare a person missing and dead, the court of first instance for the last legal address of that person, or, failing that, for their last place of residence, shall have jurisdiction.

The above notwithstanding, in the case of a declaration of death in the circumstances set out in sections 2 and 3 of article 194 of the Civil Code, the court of first instance of the place of the accident shall have jurisdiction in relation to all those affected. If the accident took place outside Spanish territory, the court of first instance of the place where the journey began shall have jurisdiction in relation to Spanish citizens and individuals resident in Spain; and if the journey began abroad, it shall be the court of first instance of the place where the majority of those affected have their legal address or place of residence in Spain. Where jurisdiction cannot be determined in accordance with the above criteria, the court of first instance of the place where any one of those affected has their legal address or place of residence shall have jurisdiction.

2. The public prosecution service, ex officio or acting on a report, shall have locus standi to apply for proceedings to declare a person missing and dead, as shall the spouse of the missing person, where they are not legally separated, the person joined with the missing person in a sentimental relationship analogous to marriage, blood relatives of the missing person up to the fourth degree of consanguinity and any other person who may reasonably have some exercisable right over the goods of the missing person, either while that person is living or dependent on their death. Nevertheless, the declaration of death referred to in sections 2 and 3 of article 194 of the Civil Code may only be carried out at the request of the public prosecution service.

3. In cases of disappearance or legal absence, the initial application must state the name, legal address and other details regarding the location of

the closest known relatives of the absent or missing person, up to the fourth degree of consanguinity and the second degree of affinity.

4. The involvement of neither a lawyer nor a court lawyer is mandatory for these proceedings.

Article 69. *Court-appointed guardian in the case of disappearance.*

1. In cases of the disappearance of a person, where a party having locus standi or the public prosecution service applies for the appointment of a court-appointed guardian, under article 181 of the Civil Code, once it has been proved that the requirements established by that provision have been met, the court clerk shall appoint the relevant individual, after a court appearance to be held no more than five days from when the application is submitted, to which the interested parties and the public prosecution service shall be summoned and where the witnesses proposed by the applicant shall be heard.

2. In urgent cases, where waiting until after the court appearance to make the appointment may result in damage, the court clerk may immediately appoint the relevant individual, or whoever the applicant proposes, as court-appointed guardian, as well as adopting urgent measures to protect the assets of the missing person, with the ordinary formalities of the proceedings continuing later, which in this case shall conclude with a decision either confirming or revoking the appointment and the measures ordered at the start.

Article 70. *Declaring a person missing.*

1. The legal missing person declaration referred to in articles 182 to 184 of the Civil Code, with the consequent appointment of the missing person's representative, must be requested by the interested party or by the public prosecution service, providing the necessary evidence to prove that all the requirements stipulated in the Civil Code for such a declaration are met.

2. The court clerk shall accept the application and set a day and time for a court appearance, to take place within one month, to which he shall summon the applicant and the public prosecution service, as well as the relatives mentioned in the initial application and those recorded in the proceedings as interested parties; he shall then order the decision accepting the application to be published twice, by means of public notices, with an interval of at least eight days, in the Official National Gazette and on the council noticeboard of the place where the missing person had their

last legal address, as stipulated in the Civil Procedure Rules. The public notices shall state that anyone having an interest in the missing person declaration may take part in the appearance.

3. In these proceedings, the court clerk, acting *ex officio* or at the request of an interested party, with the involvement of the public prosecution service, may adopt whatever fact-finding and investigation measures he deems appropriate, as well as all any protection measures he deems useful to the disappeared or missing person.

4. If, at the appearance, the examination of some form of evidence is proposed, or some useful step to find out the whereabouts of the subject of the proceedings, the court clerk may order it to be carried out after the appearance.

Article 71. *Decision and appointment of the missing person's representative.*

1. Once any evidence deemed necessary has been examined and the court appearance has ended, the court clerk, where appropriate in view of the evidence, shall issue a decree ordering a legal missing person declaration, he shall appoint the missing person's representative in accordance with the provisions of article 184 of the Civil Code, who shall be responsible for the inquiry into the missing person, the protection and administration of their goods and the fulfilment of their obligations, and shall order whatever is appropriate in accordance with the Civil Code, according to the case in question.

2. The provisions of chapters IV and VIII regarding the appointment of guardians, acceptance or refusal of, or removal from, the role, the provision of security and the setting of pay, shall apply to the appointed representatives of the missing person, as shall those with regard to obtaining authorisations and approvals to carry out certain transactions relating to the goods and rights of the missing person and accounting for their actions once they have finished in the role, which shall be handled and decided by the court clerk.

Article 72. *Interim measures.*

1. Where, before proceedings for a legal missing person declaration are initiated, any of the measures regulated in the Civil Code for cases of disappearance have been adopted, they shall remain in place until that

declaration occurs, unless the court clerk, at the request of the interested party or the public prosecution service, deems it advisable to alter them.

2. Where they have not been adopted, the court clerk may order them provisionally, until the missing person proceedings are concluded.

Article 73. *Making a goods inventory.*

Once the representative has accepted the position, they shall be given a certified copy of the decision to serve as documentary evidence of their role, and they must then provide an inventory of the movable items and a description of the immovable items referred to in point one of article 185 of the Civil Code, including the missing person's outstanding debts and obligations. This must be carried out in the same proceedings, with the involvement of the public prosecution service and with all interested parties in attendance.

Article 74. *Declaring a person's death.*

1. The declaration of death referred to in the second section of article 194 of the Civil Code shall be requested by the public prosecution service immediately after the accident. In the case of the circumstances regulated in the third section of the same article, it shall do so eight days after the accident, if the remains have not been identified.

Once the evidence deemed necessary to prove satisfaction of the requirements stipulated in the above-mentioned sections has been provided and examined, within five days, in collaboration, where appropriate, with the relevant diplomatic or consular offices, the competent court clerk shall issue the appropriate decision on the same day.

The decree issued by the court clerk shall declare the death of however many individuals were in the situation in question, giving the date of the accident as the date on which the death is understood to have occurred.

2. The declaration of death referred to in article 193 and sections 1,4 and 5 of article 194 of the Civil Code may be requested by the interested parties or by the public prosecution service and shall be handled in accordance with the provisions of this chapter.

The decree issued by the court clerk in such cases shall, where it is proved, declare the end of the situation of legal absence, where that has been

decreed previously, and the death of the person, stating the date on which the death is understood to have occurred.

3. Once the declaration of the missing person's death is final, succession proceedings may begin, with their goods being distributed according to the procedures established in the Civil Procedure Rules or without the involvement of the court, as appropriate.

Article 75. *Events after declaring a person missing or dead.*

1. Should someone appear claiming to be the person declared missing or dead, the court clerk shall order that person to be appropriately identified, which he may order *ex officio* or at the request of the interested party, summoning the person making the claim, the public prosecution service and all those who were involved in the declaration proceedings to appear in court.

After the appearance, the court clerk shall issue a decree within three days either revoking or confirming the decision declaring the person missing or dead.

2. If the person does not appear, but there is news of their supposed existence in a known location, that person shall be notified in person of the decision declaring the person in question missing or dead, requiring them to provide proof of their identity within twenty days. After that time, regardless of whether or not they have submitted such proof, the court clerk shall set a date for the appearance referred to in the previous section, summoning those stated in that section to appear. The court clerk shall issue the appropriate decision within three days.

3. If the person claiming to be the missing person requests it and provides documentary identification which the court clerk deems sufficient, an order may be issued suspending the representative of the person declared missing from their functions until the court appearance.

4. If there is news of the death of the missing person after they have been declared missing or dead, the court clerk, after a court appearance to which he shall summon the interested parties and the public prosecution service and where the relevant evidence shall be examined to confirm the death, shall decide regarding the revocation of the decision within three days.

Article 76. *Proof of the missing person's death.*

If at any time during the course of any of the proceedings referred to in the preceding articles of this chapter the death of the missing person is confirmed, the proceedings shall be dismissed and any measures adopted shall be rendered void.

Article 77. *Notification of the register office.*

All necessary certified copies shall be sent to the register office to record there what is stipulated in article 198 of the Civil Code.

CHAPTER X

ON THE REMOVAL OF ORGANS FROM LIVE DONORS

Article 78. *Scope of application and jurisdiction.*

1. The rules of this chapter shall apply to proceedings intended to establish the existence of the donor's free, informed and selfless consent and the satisfaction of the other requirements for the removal and transplantation of organs from a live donor under Law 30/1979, of 27 October, regarding the removal and transplantation of organs, and its implementing regulations.

2. The judge of first instance for the locality where the removal or transplant is to be carried out, at the discretion of the applicant, shall have jurisdiction to hear these proceedings.

Article 79. *Application and procedure.*

1. The proceedings shall be initiated by means of an application from the donor or a notification from the director of the hospital where the removal is going to take place, or whoever that director delegates, setting out the personal and family circumstances of the donor, the purpose of the donation, the hospital where the removal is to take place, the identity of the doctor responsible for the transplant or removal, or the doctor to whom responsibility is delegated, and must be accompanied by a medical certificate regarding the mental and physical health of the donor, issued in accordance with the provisions of the applicable regulations.

The involvement of neither a lawyer nor a court lawyer is necessary to take part in these proceedings.

2. The doctor who is to carry out the removal shall be summoned to appear in court, together with the doctor who signed the certificate referred to in the preceding section, the doctor responsible for the transplant, or to whom responsibility is delegated, and the person responsible for authorising the procedure, in accordance with the document authorising the removal of organs by the hospital in question, or whoever that person delegates.

3. The donor must give their express consent before the judge during the appearance, after hearing the explanations of the doctor who is to carry out the removal and those of the others in attendance. The judge may also ask those in attendance for the explanations he deems appropriate regarding whether the legal requirements for giving consent have been met.

Article 80. *Decision.*

1. If the judge deems that the consent expressly given by the donor has not been given in a free, informed and selfless manner, or that other legal requirements have not been met, he shall not issue the document transferring the organ.

2. Otherwise, if he deems that the legal requirements have been met, he shall issue the written document transferring the organ, which shall be signed by the interested party, the doctor who is to carry out the removal and the others in attendance. If any of those present doubts that the consent has been given in a free, informed and selfless manner, they may object to the donation.

3. A copy of the transfer document, which must state that the donor is free to revoke their consent at any time prior to the procedure, shall be given to the donor.

TITLE III

ON NON-CONTENTIOUS PROCEEDINGS WITH REGARD TO FAMILY MATTERS

CHAPTER I

ON DISPENSATION FROM MATRIMONIAL IMPEDIMENT

Article 81. *Jurisdiction, locus standi and representation.*

1. The judge of first instance for the legal address or, failing that, for the place of residence of either bride or groom shall have jurisdiction to hear an application for dispensation from matrimonial impediments due to the intentional death of their spouse or individual with whom they were joined in a sentimental relationship analogous to marriage or due to third-degree kinship between collaterals, laid down in article 48 of the Civil Code.
2. The party to whom the matrimonial impediment applies must bring these proceedings.
3. The involvement of neither a lawyer nor a court lawyer is mandatory for these proceedings.

Article 82. *Application.*

The proceedings shall be initiated by means of an application to the court setting out the individual, family or social grounds for it and accompanied by the documents and information necessary to prove the existence of the reasonable grounds required by the Civil Code to grant such dispensation and, where appropriate, the evidence offered, which the judge shall order to be taken. In the case of the impediment due to kinship, the application must clearly set out the genealogical tree of the bride and groom.

Article 83. *Procedure and decision.*

1. Once the application has been accepted by the court clerk, he shall summon the bride and groom and any other interested parties to appear in

court, where they shall be heard. For dispensation from the impediment due to the intentional death of the previous spouse, the public prosecution service must also be summoned. Any evidence offered and accepted shall be examined at the appearance.

2. The judge, taking into consideration the justification offered, shall decide either granting or refusing dispensation from the impediment to marriage.

Article 84. Certification.

In the event that dispensation to marry is granted, the court clerk shall issue the applicant with a certified copy of the decision to use as appropriate.

CHAPTER II

ON JUDICIAL INTERVENTION IN RELATION
TO PARENTAL AUTHORITY

Section 1. Common provision

Article 85. Procedure.

1. In the proceedings referred to in this chapter, once the court clerk has accepted the application, he shall summon the applicant to appear in court, together with the public prosecution service, the parents, custodians or guardians, as appropriate, the individual whose capacity has been modified by a court, where appropriate, or the minor, if sufficiently mature and, in any event, if over 12 years of age. If the individual having parental authority is an unemancipated minor, their parents or, in their absence, their guardian shall also be summoned. Other interested parties may also be summoned as required.

2. Acting ex officio or at the request of the applicant, the other interested parties or the public prosecution service, the judge may order such formalities as he deems appropriate to take place during the appearance. If those formalities take place after the appearance, the relevant report shall be passed to the parties to enable them to make statements within five days.

3. The involvement of neither a lawyer nor a court lawyer shall be mandatory to bring and take part in these proceedings.

Section 2. On judicial intervention in cases of disagreement in the exercise of parental authority

Article 86. *Scope of application, jurisdiction and locus standi.*

1. The provisions of this section shall apply when a judge has to intervene in cases of disagreement in the exercise of parental authority which is exercised jointly by both parents. They shall also apply in cases in which judicial authorisation or intervention is legally required where the individual having parental authority is an unemancipated minor and there is disagreement or their parents or tutor cannot be involved.

2. The court of first instance for the legal address or, failing that, for the place of residence of the child shall have jurisdiction. However, where joint exercise of parental authority by both parents has been established by a judicial decision, the court of first instance which issued that decision shall have jurisdiction to hear the proceedings.

3. Both parents, individually or jointly, shall have locus standi to bring these proceedings. If the individual having parental authority is an unemancipated minor, their parents or, in their absence, their guardian shall also have locus standi.

Section 3. On protection measures relating to inadequate exercise of custodial authority or authority to administer the goods of a minor or individual whose capacity has been modified by a court.

Article 87. *Scope of application, jurisdiction and locus standi.*

1. The provisions of this section shall apply to the adoption of measures relating to inadequate exercise of custodial authority over minors or individuals whose capacity has been modified by a court or the administration of their goods in the cases referred to in articles 158, 164, 165, 167 and 216 of the Civil Code. And in particular:

- a) To the adoption of the measures to protect minors or individuals whose capacity has been modified by a court laid down in article 158 of the Civil Code.
- b) To the appointment of an administrator to administer goods inherited by a child where the father, the mother or both have been justifiably disinherited, or were not able to inherit on the grounds of being

debarred, the deceased has not appointed anyone to do so and nor could the other parent perform that function.

c) To the allocation to parents lacking means of an equitable share of the income from goods acquired by a child as a gift where the giver expressly ordered that it was not for the parents, from inherited property where the father, the mother or both have been justifiably disinherited or were not able to inherit on the grounds of being debarred, or from property given or left to the children especially for their education or career.

d) To the adoption of the measures necessary to guarantee and protect children's goods, to demand guarantees or security from the parents to continue with their administration or even appoint an administrator where the parents' administration jeopardises the child's assets.

2. The court of first instance for the legal address or, failing that, for the place of residence of the minor or individual whose capacity has been modified by a court shall have jurisdiction. Nevertheless, where joint exercise of parental authority by both parents or the allocation of care and custody of the children was established by a judicial decision, or where the children are wards, the court of first instance which heard the initial proceedings shall have jurisdiction to hear these proceedings.

3. The measures referred to in this chapter shall be adopted ex officio or at the request of the affected individual, any relative or the public prosecution service. Where they are requested with regard to an individual whose capacity has been modified by a court, they may also be adopted at the request of any interested party.

Article 88. *Decision.*

If the judge deems it appropriate to adopt measures, he shall decide as appropriate, appointing the individual or institution, as appropriate, which is to take charge of the custody of the minor or individual whose capacity has been modified by a court, he shall adopt the measures appropriate to the case in accordance with the provisions of articles 158 and 167 of the Civil Code and, where appropriate, he shall appoint a court-appointed guardian or an administrator.

Article 89. *Procedure in cases of guardianship.*

In cases of guardianship of the minor or individual whose capacity has been modified by a court, the judge who heard the proceedings shall send

a certified copy of the final decision to the judge that handled the appointment of the guardian.

CHAPTER III

ON JUDICIAL INTERVENTION IN CASES OF MARITAL DISAGREEMENT AND DISAGREEMENT IN THE ADMINISTRATION OF GOODS OWNED JOINTLY BY BOTH SPOUSES

Article 90. *Scope of application, jurisdiction, locus standi and procedure.*

1. The procedures regulated in the common rules of this Act shall be followed where the spouses, individually or jointly, request judicial intervention or authorisation to:

- a) To decide on the marital residence or rule on the habitual abode and ordinarily used objects, where there is disagreement between the spouses.
- b) To establish the contribution to the costs of married life, where one of the spouses fails to fulfil that obligation.
- c) To carry out an administrative act regarding common goods where the consent of both spouses is required, or to dispose of common property for valuable consideration, where the other spouse is prevented from giving consent or unjustifiably refuses to do so.
- d) To confer the administration of common goods, where one of the spouses is prevented from giving consent or has abandoned the family or there is a de facto separation.
- e) To dispose of immovable assets, commercial establishments, valuable objects or transferable securities, except pre-emptive rights, where the spouse is entrusted with the administration and, where appropriate, disposal of common goods by operation of law or by virtue of a judicial decision.

2. In proceedings regarding the allocation of the administration and disposal of common goods to just one of the spouses, the judge may also order precautionary measures and limitations, acting ex officio or at the request of the public prosecution service where its involvement in the proceedings is required.

3. In the proceedings referred to in the two preceding sections, the court of first instance of the place where the spouses had their last legal address or place of residence shall have jurisdiction.

The involvement of neither a lawyer nor a court lawyer shall be mandatory to bring or take part in these proceedings, unless the judicial intervention is to carry out an act involving property worth more than 6,000 euros, in which case it shall be necessary.

4. At the court appearance, the judge shall hear the applicant, the applicant's spouse, where appropriate, and any other interested parties, and may order the gathering of any other evidence he deems appropriate.

5. The public prosecution service shall be heard in these proceedings where the interests of minors or individuals whose capacity has been modified by a court are threatened.

TITLE IV
**ON NON-CONTENTIOUS PROCEEDINGS RELATING TO THE LAW
OF SUCCESSION**

CHAPTER I
ON EXECUTORSHIP

Article 91. *Scope of application, jurisdiction, locus standi and procedure.*

1. In the cases where it is required in accordance with civil legislation, the provisions of this chapter shall apply:

1. To cases where the executor resigns from the role or where the duration of the executorship is extended.
2. To removal from the role.
3. To accountability on the part of the executor.
4. To obtaining authorisation for the executor to dispose of goods forming part of the inheritance.

2. The involvement of neither a lawyer nor a court lawyer shall be mandatory to take part in these proceedings where the value of the assets forming the inheritance is less than 6,000 euros.

3. At the discretion of the applicant, the court of first instance for the last legal address or habitual residence of the deceased, for the place where the majority of their assets are located, regardless of their nature in accordance with the applicable law, or for the place where the deceased died, provided that it is in Spain, shall have jurisdiction to hear these proceedings, which shall take place in accordance with the common rules of this Act. Where none of those is possible, the court of first instance for the legal address of the applicant shall have jurisdiction.

4. The judge shall have responsibility for deciding these proceedings, except in the cases provided for in point 1 of section 1 of this article, where the court clerk shall decide.

CHAPTER II

ON COURT-APPOINTED ESTATE PARTITIONERS.

Article 92. *Scope of application, jurisdiction, locus standi and procedure.*

1. The provisions of this chapter shall apply:

- a) To the appointment of a court-appointed estate partitioner in the cases provided for in article 1057 of the Civil Code.
- b) To cases where the appointed partitioner resigns or where the agreed duration of the assignment is extended.
- c) To the approval of the partition carried out by the partitioner where required on account of not having been expressly confirmed by all the heirs and legatees.

2. The involvement of neither a lawyer nor a court lawyer shall be mandatory to take part in these proceedings where the value of the assets forming the inheritance is less than 6,000 euros.

3. At the discretion of the applicant, the court of first instance for the last legal address or habitual residence of the deceased, for the place where the majority of their assets are located, regardless of their nature in accordance with the applicable law, or for the place where the deceased died, provided that it is in Spain, shall have jurisdiction in these proceedings, which shall take place and be decided by the court clerk in accordance with the common rules of this Act and the provisions of the Civil Code. Where none of those is possible, the court of first instance for the legal address of the applicant shall have jurisdiction.

CHAPTER III

ON ACCEPTANCE OR REPUDIATION OF AN INHERITANCE

Article 93. *Scope of application.*

1. The provisions of this chapter shall apply in all cases where, in accordance with the law, the acceptance or repudiation of an inheritance requires judicial authorisation or approval in order to be valid.

2. In any event, the following shall require judicial authorisation:

- a) Parents exercising parental authority to repudiate an inheritance or legacy on behalf of their children who are under 16 years of age or

where, being over that age but under the age of majority, the children do not give their consent.

b) Guardians and, where appropriate, court-appointed guardians, to accept any inheritance or legacy without the benefit of inventory or to repudiate an inheritance or legacy.

c) Creditors of an heir who has repudiated an inheritance to the detriment of those creditors, to accept the inheritance on behalf of the heir.

3. Judicial approval shall also be necessary for repudiation of an inheritance to have effect where it is carried out by the legitimate representatives of associations, corporations and foundations capable of acquisition.

Article 94. *Jurisdiction, locus standi and representation.*

1. At the discretion of the applicant, the court of first instance for the last legal address or, failing that, for the last place of residence of the deceased and, where that was in a foreign country, for the place where the deceased had their last legal address in Spain or where the majority of their goods is located, shall have jurisdiction to hear these proceedings, which shall take place in accordance with the common rules of this Act.

2. Authorised representatives of those entitled to an inheritance, those entitled to an inheritance represented by the public prosecution service, where they are minors or their capacity has been modified by a court, their court-appointed guardian, where that guardian was not given the relevant authorisation when appointed, and the creditors of an heir who has repudiated an inheritance.

3. The involvement of the public prosecution service shall be necessary in the cases stated in letters a) and b) of section 2 of article 93.

4. The involvement of neither a lawyer nor a court lawyer shall be mandatory to take part in these proceedings where the value of the assets forming the inheritance is less than 6,000 euros.

Article 95. *Decision.*

1. The judge, taking into consideration the justification offered and assessing its advisability in the interests of those entitled to the inheritance, shall decide, either granting or refusing the authorisation or approval requested.

2. In the event that authorisation or approval is requested to accept an inheritance without the benefit of inventory or repudiate it, where that is not granted by the judge, the inheritance may only be accepted with the benefit of inventory.

3. An appeal may be lodged against the decision and with suspensive effects.

TITLE V
**ON NON-CONTENTIOUS PROCEEDINGS RELATING TO THE LAW
OF OBLIGATIONS**

CHAPTER I
ON SETTING A TIME LIMIT FOR THE PERFORMANCE
OF OBLIGATIONS WHERE APPROPRIATE

Article 96. *Scope of application.*

Where, in accordance with article 1128 of the Civil Code or any other legal provision, it is appropriate for a court to set a time limit for the performance of an obligation, at the request of one of those affected by that obligation, the common rules of this Act shall apply.

Article 97. *Jurisdiction and representation.*

1. The judge of first instance for the legal address of the debtor shall have jurisdiction to handle and decide these proceedings. Where the hampered relationship is between a consumer or user and a trader or professional and the latter is the debtor as regards the service, at the discretion of the creditor, the judge of first instance for the legal address of the creditor may also have jurisdiction.

2. The involvement of neither a lawyer nor a court lawyer is mandatory to take part in these proceedings.

3. If the application is contested, the proceedings shall become contentious and the court clerk shall summon the interested parties to a hearing, continuing in accordance with the provisions for fast track proceedings.

CHAPTER II
ON JUDICIAL CONSIGNMENT

Article 98. *Scope of application, jurisdiction and representation.*

1. The provisions of this chapter shall apply in cases where payment is required in accordance with the law and that payment is made into judicial body.
2. The court of first instance for the place where the obligation must be performed and, where it may be performed in various places, any of those places, at the discretion of the applicant, shall have jurisdiction. Failing that, the court of first instance for the legal address of the debtor shall have jurisdiction.
3. The involvement of neither a lawyer nor a court lawyer is mandatory to take part in these proceedings.

Article 99. *Procedure.*

1. The party bringing the proceedings for judicial consignment must set out in the application the identifying details and circumstances of the interested parties in relation to the obligation referred to in the proceedings, the legal address or addresses where they may be summoned, as well as the grounds for the proceedings, everything relating to the purpose of the proceedings, placing the matter in the hands of the judicial body and, where appropriate, what is sought with regard to the payment.

It must also prove that the applicant has made an offer of payment, where appropriate, and, in any event, that the creditor and other interested parties in relation to the obligation have been notified of the proceedings for judicial consignment.

With the application, the obligation owed must be placed in the hands of the court, without prejudice to the fact that the applicant may subsequently be designated as the depository.

2. If the application does not meet the necessary requirements, the court clerk shall issue a decree to that effect and shall order the judicial consignment to be returned to the applicant.

Otherwise, once the court clerk has accepted the application, he shall notify the interested parties of the judicial consignment, giving them ten

days to withdraw the obligation owed or make the declarations they deem appropriate. He shall also adopt the appropriate measures as regards the deposit of the obligation owed.

3. Where the interested parties appearing in court withdraw the obligation owed, expressly accepting the judicial consignment, the court clerk shall issue a decree declaring it accepted, with the appropriate legal effects, ordering the obligation and, where appropriate, the guarantee to be cancelled, if the applicant requests it.

4. Where, on expiry of the prescribed period, the interested parties have not withdrawn the obligation owed, made any allegation or rejected the judicial consignment, the applicant shall be informed and given five days to either request the return of the judicial consignment or to maintain it.

Where the applicant requests the return of the judicial consignment, the creditor shall be given five day's notice and, if the creditor authorises its withdrawal, the court clerk shall issue a decree dismissing the proceedings and the creditor shall lose any priority they may have over the sum and any joint applicants or guarantors shall be released from their obligations. If the payment is withdrawn solely at the request of the applicant, the obligation shall remain in force when the proceedings are dismissed.

Where the applicant requests the judicial consignment to be maintained, the court clerk shall summon the applicant, the creditor and any other interested parties to appear before the judge, where they shall be heard and where any evidence offered and accepted shall be examined.

5. The judge, taking into consideration the justification offered, the obligation and whether the judicial consignment meets the relevant requirements, shall decide, declaring it properly made or not.

If the decision finds the payment properly made, it shall produce the appropriate legal effects, the payment shall be handed over to the creditor and the obligation cancelled, if the applicant requests it. Otherwise, the obligation shall remain in force and the payment shall be returned to the applicant.

6. The costs incurred by the judicial consignment shall be met by the creditor, if the payment is accepted or declared properly made. If it is declared improper or the payment is withdrawn, those costs shall be met by the applicant.

TITLE VI
**ON NON-CONTENTIOUS PROCEEDINGS RELATING
TO RIGHTS IN REM**

CHAPTER I
ON JUDICIAL AUTHORISATION FOR A LIFE TENANT TO CLAIM
OVERDUE LOANS FORMING PART OF THE USUFRUCT

Article 100. *Scope of application.*

The provisions of this chapter shall apply in cases where the life tenant intends to claim or collect, for their own benefit, overdue loans forming part of the usufruct, where they are exempted from providing security or are not able to do so, or the security provided is not sufficient and does not have the authorisation of the owner, or in order to earn interest on the capital claimed in that way, without the agreement of the owner.

Article 101. *Jurisdiction and representation.*

1. The court of first instance for the last legal address or, failing that, for the last place of residence of the applicant shall have jurisdiction to hear these proceedings, which shall take place in accordance with the common rules of this Act.
2. The involvement of neither a lawyer nor a court lawyer shall be mandatory to take part in these proceedings.

Article 102. *Application.*

The proceedings shall be initiated by means of an application by the life tenant, accompanied by the documents or evidence proving their entitlement, the existence of the overdue loan they intend to claim, or, where appropriate, the amount collected by claiming and on which they intend to earn interest, and the lack of authorisation from the owner. Where they request authorisation to earn interest on the capital obtained by collecting the overdue loan, they must offer sufficient guarantees that the capital will remain intact.

Article 103. *Procedure and decision.*

1. Once the application has been accepted by the court clerk, he shall summon the applicant, the owner and any parties having an interest in the collection of the loan to appear in court, where they shall be heard in that order. Subsequently, any evidence offered and accepted shall be examined.

2. The judge, taking into consideration the justification offered and assessing the advisability of collecting the loan forming part of the usufruct or investing the capital obtained, shall decide, either granting or refusing the authorisation requested.

Where the authorisation granted is to collect an overdue loan forming part of the usufruct, the obligation must be established for the life tenant to inform the court periodically, within the prescribed time limits, regarding the steps taken and the final outcome.

Where the authorisation is to earn interest on the capital obtained by collecting the loan, the decision must contain the guarantees to be put in place by the life tenant to retain the capital intact.

CHAPTER II

ON PROCEEDINGS TO DEFINE THE BOUNDARIES OF UNREGISTERED PROPERTIES

Article 104. *Scope of application.*

The provisions of this chapter shall apply to applications to define the boundaries of properties which are not registered with the Land Register. In the case of registered properties, the provisions of mortgage legislation shall apply.

Likewise, they shall not apply to immovable assets belonging to public authorities, the boundaries of which shall be defined in accordance with their specific legislation.

Article 105. *Jurisdiction, locus standi and representation.*

1. The court clerk of the court of first instance for the place where the property, or the majority of it, is located shall have jurisdiction to hear these proceedings.

2. The proceedings shall be initiated at the request of the full legal owner of the property or, where there are various, any of them, or the owner of any right of quiet enjoyment in relation to it.

3. The involvement of a lawyer shall be mandatory in these proceedings if the value of the property is greater than 6,000 euros.

Article 106. *Application and procedure.*

1. The proceedings shall be initiated by means of a document stating the circumstances of both the property whose boundaries are to be defined and of those adjoining it, together with the identifying details of their owners, including cadastral information, with their legal address if it is known by the applicant. Where the demarcation requested does not refer to the whole perimeter of the property, the part to which it is to apply must be stated. With regard to adjoining properties which are registered with the Land Register, certification of registration must also be provided.

The applicant must, in any event, provide the descriptive and graphic cadastral certification of the property whose boundaries are to be defined and of those adjoining it, together with the documents or proof on which the application is based. Also, where the applicant states that the cadastral graphic representation does not coincide with the boundaries requested, a georeferenced graphic representation of those boundaries must be provided. In any event, the alternative graphic representation must respect the demarcation of the affected properties in the cadastral cartography as regards anything not affected by the demarcation requested. That graphic representation must be properly georeferenced and signed by a competent expert, such that it may be included in the cadastre once the boundaries have been defined.

2. Once the application has been accepted, the court clerk shall inform all the interested parties that the proceedings have begun, giving them fifteen days to make the declarations and submit the evidence they deem appropriate. At the end of that time, the court clerk shall notify those interested parties of all the documentation provided and shall summon them to a hearing to define the boundaries, to be held within thirty days, in order to reach agreement between them.

Failure to attend by any of the owners of the adjoining properties shall not prevent the boundaries being defined, without prejudice to their right to bring the appropriate declaratory action for the possession or ownership which they believe they have been stripped of by the demarcation.

Similarly, if before the hearing, the owner of any of the adjoining properties opposes the demarcation, the proceedings in relation to the part of the property adjoining that of the opponent shall be dismissed, without prejudice to the right of the parties to bring the appropriate declaratory action, and the rest of the proceedings shall continue.

Article 107. *Decision.*

1. Where agreement is reached between all of the interested parties or some of them, the court clerk shall make a record of whatever they agree and that the hearing ended with complete or partial agreement regarding one or more of the boundaries, together with the terms of that agreement, which must be signed by those in attendance. Where it is not possible to reach any agreement whatsoever, a record shall be made that the hearing ended without agreement.

2. At the end of the hearing, the court clerk shall issue a decree recording the agreement, or that it was partial with regard to one or more of the boundaries, or that no agreement was reached, and shall order the definitive discontinuance of the proceedings. The decree shall include the record of the hearing and, in any event, the descriptive and graphic cadastral certification and, where there is any conflict with that, the alternative graphic representation provided.

3. The court clerk shall send a certified copy of the court record and the decree to the cadastre, to enable the relevant changes to be made to the cadastre, where appropriate, according to the applicable regulations.

TITLE VII

ON PROCEEDINGS RELATING TO VOLUNTARY AUCTIONS

Article 108. *Scope of application.*

The provisions of this title shall apply, outside legal proceedings for debt collection, whenever the sale at auction of certain goods or rights is required, at the request of the interested party.

Article 109. *Jurisdiction and representation.*

1. The court of first instance for the legal address of the owner or, where there are various owners, any of them, shall have jurisdiction. In the case of immovable goods, the court of first instance for the place where those goods are located shall have jurisdiction.

2. The involvement of neither a lawyer nor a court lawyer shall be mandatory to take part in these proceedings.

Article 110. *Application.*

1. To initiate the proceedings, an application shall be required, identifying and stating the condition of the property or right and accompanied by the following documents:

- a) Those proving the applicant's legal capacity to contract.
- b) Those proving the applicant's authority to dispose of the property or right to be auctioned. In the case of registrable goods or rights, certification of registration of ownership and charges must be included.
- c) The schedule of specific terms according to which the auction must take place and including the valuation of the goods or rights to be auctioned.

2. Where the property to be auctioned is an immovable asset with tenants or occupants, the applicant must identify them in the initial application and

the procedure stipulated in article 661 of the Civil Procedure Rules shall apply.

3. The application may ask the court clerk to order the property or right to be sold by a specialist individual or entity. If he deems it appropriate, the court clerk shall order such a sale, subject to the provisions of article 641 of the Civil Procedure Rules insofar as they are compatible with the provisions of this title.

Article 111. Procedure.

1. The court clerk, before deciding regarding the application, shall consult the public insolvency register for the purposes stipulated in the relevant special legislation.

2. Having seen the documentation, he shall decide as appropriate regarding the auction.

If he decides that it is legitimate, he shall inform the public insolvency register of the proceedings, expressly specifying the tax identification number of the owner, whether that is a natural or a incorporated entity, whose property is going to be auctioned. The public insolvency register shall notify the court which is hearing the proceedings regarding any entry made associated with the tax identification number notified for the purposes stipulated in the legislation on insolvency.

The court clerk shall inform the public insolvency register when the proceedings end.

3. Once the auction has been approved, where the property being auctioned is an immovable good or a right in rem registered with the Land Register, or movable goods subject to similar public registration rules, the court clerk shall, by electronic means, request certification of registration of ownership and charges. The relevant property registrar shall issue the certification with ongoing information by the same means and shall record this fact in a margin note to the property or right. The note shall indicate that the property or right is being sold at auction and shall expire six months after its date, unless, prior to that date, the court clerk notifies the registrar that the proceedings have ended or been suspended, in which case, the period shall be calculated from when the court clerk gives notice of them resuming.

The registrar shall notify the court clerk and the auctions portal of the Official National Gazette (Agencia Estatal Boletín Oficial del Estado), immediately and electronically, where another or other titles have been presented which alter the initial information.

The auctions portal shall gather the information provided by the register immediately to pass it onto anyone consulting its content.

4. In any event, the auction shall be conducted electronically via the auctions portal of the Agencia Estatal Boletín Oficial del Estado, under the responsibility of the court clerk, and therefore the relevant provisions of the Civil Procedure Rules shall apply, insofar as they are compatible with the provisions of this title.

5. The auction shall be advertised and held in accordance with the provisions of the Civil Procedure Rules as regards anything not provided for in the schedule of specific terms. The public notices shall contain the schedule of specific terms.

6. Once the auction has concluded, the court clerk shall issue a decree ordering the sale to the sole or highest bidder, provided that the reserve set by the applicant is reached and the applicant has not expressly reserved the right to approve the sale; where the applicant has reserved that right, they shall be notified of the proceedings and given three days to say how they wish to proceed. They shall be notified in the same way in the event that a bidder offers to accept the sale altering some of the terms.

If the applicant approves the sale or accepts the proposal, a decision shall be issued approving the sale to the relevant bidder..

7. Where there is no bidder at the auction or the applicant does not accept the proposal, the proceedings shall be dismissed.

8. The decree awarding the sale shall contain a description of the property or right, the identity of those involved, the terms of the award and any other requirements, as appropriate, for inclusion in the appropriate register. A certified copy of the decision, which shall be given to the successful bidder, shall be sufficient title for inclusion in the relevant registers.

TITLE VIII
**ON NON-CONTENTIOUS PROCEEDINGS WITH REGARD TO
COMMERCIAL MATTERS**

CHAPTER I
ON THE PRODUCTION OF BOOKS BY PERSONS
REQUIRED TO KEEP ACCOUNTS

Article 112. *Scope of application.*

The production of accounting ledgers, documents and media by persons required to keep them, where it is legitimate in accordance with the law or to the extent determined by the law, may be requested by means of these proceedings, provided that there is no special regulation applicable to the case.

Article 113. *Jurisdiction and representation.*

1. The commercial court for the legal address of the person required to produce the books, or for the registered office of the establishment whose accounts the books and documents in question refer to, shall have jurisdiction.
2. The involvement of a lawyer and a court lawyer shall be mandatory for these proceedings.

Article 114. *Procedure.*

1. The application shall be handled in accordance with the common rules laid down in this Act; the right or legitimate interest of the applicant must be stated and the entries to be examined, or their content, must be specified as precisely as possible, together with the object and aim of the application.

Once the application has been accepted by the court clerk, he shall summon those who must be involved in the proceedings to appear before the judge. The judge shall issue a reasoned decision on the application at the appearance itself, which shall subsequently be documented by the

court clerk, or within five days of the end of the appearance, by means of an order.

2. If the application is upheld, the order shall require those ledgers or documents which may legitimately be examined to be made available, specifying the extent of the examination and summoning the person required to produce them and setting a date and time for doing so. If the summoned party requests specific hours to avoid disruption to their activities, the judge shall decide as appropriate, having heard the interested parties. The judge may, stating his reasons, exceptionally request that the books or their data media be produced in court, provided that the entries to be examined are specified.

Article 115. *Manner of production.*

1. The person required to produce the books must cooperate and provide access to the documentation requested to enable the applicant to examine it.

2. The books shall be produced before the court clerk at the legal address or establishment of the person required to keep them, or by providing them on a data medium where that has been agreed; the applicant may examine the specified ledgers, documents or media alone or with the assistance of experts named in the application and authorised by the judge and the court clerk shall keep a record of what takes place.

Article 116. *Penalties.*

1. If the person required to produce the books refuses or hampers access to the requested documentation without justification, or fails to comply with their duty to cooperate, the court clerk, at the request of the applicant, shall order them to do so and to refrain from any further failure to comply, warning them that they may be fined and found in contempt of judicial authority.

2. If the failure to comply continues, the court clerk, after hearing the summoned individual, in order to ensure compliance with the order, may, by means of a decree and respecting the principle of proportionality, impose penalties of up to 300 euros per day, which shall be paid into the state treasury.

In order to determine the amount of the fine, the court clerk must take into consideration the circumstances of the matter in question, together with any detriment that may have been caused to the other interested party.

CHAPTER II

ON CALLING GENERAL MEETINGS

Article 117. *Scope of application.*

The proceedings provided for in this chapter shall apply in all cases where the law permits a general meeting, whether ordinary or extraordinary, to be called.

Article 118. *Jurisdiction, locus standi and representation.*

1. The commercial court for the registered office of the entity referred to shall have jurisdiction.
2. Whoever is authorised to do so in accordance with the relevant laws may request that the meeting be called.
3. The involvement of a lawyer and a court lawyer shall be mandatory to take part in these proceedings.

Article 119. *Procedure.*

1. The proceedings shall be initiated by means of a document requesting that the meeting be called, stating that the legal requirements in each case have been met and accompanied by the articles of association, the documents proving that the applicant has locus standi and those proving that the aforesaid requirements have been met.
2. If the meeting is an ordinary general meeting, the application must be based on the fact that it has not taken place within the legally established time limits. If the meeting requested is an extraordinary general meeting, the grounds for the application and the requested agenda must be stated.
3. The document may also request that a chairman and secretary other than those stipulated by the articles of association be designated for the meeting.

4. Once the application has been accepted, the court clerk shall set a day and time for a court appearance to which the governing body shall be summoned.

5. If the court clerk agrees to what is requested, he shall call the general meeting within one month of when the application was made, indicating the place, day and time of the meeting, together with its agenda, and designating its chairman and secretary. The place indicated must be the place stated in the articles of association or, failing that, within the municipal area where the registered office of the company is located.

Where, at the same time, it is requested that an ordinary and an extraordinary general meeting be held, the court may decide they should be held jointly.

No appeal of any kind may be lodged against the decree ordering the general meeting to be called.

6. Once the individual designated to chair the meeting has accepted, the decision calling the meeting must be notified to the applicant and the director.

In the event that the designated person does not accept, the court clerk shall designate a replacement.

CHAPTER III

ON APPOINTING AND REMOVING AN ENTITY'S LIQUIDATOR, AUDITOR OR ADMINISTRATOR

Article 120. *Scope of application.*

The proceedings provided for in this chapter shall be used in all those cases where the law provides for the possibility of requesting that the court clerk appoint a liquidator, auditor or administrator.

To revoke or terminate such appointments, where that has to be carried out by the court clerk, the same proceedings shall be used.

Article 121. *Jurisdiction, locus standi and representation.*

1. The commercial court for the registered office of the entity in question shall have jurisdiction to appoint a liquidator, auditor or administrator.

2. Whoever is authorised to do so under the relevant laws may request the appointment of a liquidator, auditor or administrator.

3. The involvement of a lawyer and a court lawyer shall be mandatory for these proceedings.

Article 122. *Procedure.*

1. The proceedings shall be initiated by means of a document requesting the appointment of a liquidator, auditor or administrator and stating that the legal requirements in each case have been met, accompanied by the documents on which the request is based.

2. Once the application and supporting documentation have been examined, the court clerk shall summon the interested parties who, in accordance with the law, have to be involved in the proceedings to a court appearance. Those directors who did not bring the proceedings shall be summoned to the appearance and informed of the application document.

Article 123. *Decision and acceptance of the position.*

1. The court clerk shall issue a decree deciding the proceedings within five days of the end of the appearance.

2. Those appointed shall be notified of the decision in order to accept the position. Once they have accepted the appointment, they shall be provided with the relevant credentials.

3. A certified copy of the decision shall be sent to the relevant companies register for registration.

CHAPTER IV

ON REDUCING SHARE CAPITAL AND REDEEMING OR DISPOSING OF EQUITY OR SHARES

Article 124. *Scope of application, jurisdiction and representation.*

1. The general proceedings provided for in this Act shall be used in all those cases where the law provides for the possibility of applying to the court clerk to reduce a company's share capital or to redeem or dispose of equity or shares in a company.

2. The commercial court for the registered office of the entity in question shall have jurisdiction.

3. The involvement of a lawyer and a court lawyer shall be mandatory for these proceedings.

CHAPTER V

ON JUDICIAL DISSOLUTION OF COMPANIES

Article 125. *Scope of application.*

The proceedings regulated in this chapter shall apply to the judicial dissolution of a company where it is legitimate in accordance with the law.

Article 126. *Jurisdiction, locus standi and representation.*

1. The commercial court for its registered office shall have jurisdiction to carry out the judicial dissolution of a company.

2. The directors, shareholders and any interested party shall have locus standi to request the judicial dissolution of a company.

3. The involvement of a lawyer and a court lawyer shall be mandatory for these proceedings.

Article 127. *Procedure.*

1. The proceedings shall be initiated by means of a document stating that the legal requirements for carrying out the judicial dissolution of a company have been met, accompanied by the documents on which the application is based.

Where the application is made by an individual having locus standi other than the directors, it must prove that the company has been notified of the application for dissolution.

2. Where the directors have not brought the proceedings, the court clerk shall inform them of the application document and shall summon them and any other interested party who, in accordance with the law, has to be involved in the proceedings to a court appearance.

Article 128. *Decision.*

1. The judge shall issue an order deciding the proceedings within five days of the end of the appearance.
2. In the event that the judge declares the dissolution of the company, the order shall designate the individuals who are to perform the role of liquidators and a certified copy of the order shall be sent to the relevant companies register for registration.

CHAPTER VI

ON CALLING A GENERAL MEETING OF BONDHOLDERS

Article 129. *Scope of application.*

The proceedings provided for in this chapter shall apply in all cases where the law permits a general meeting of bondholders to be called.

Article 130. *Jurisdiction, locus standi and representation.*

1. The commercial court for the registered office of the entity issuing the bonds shall have jurisdiction.
2. Whoever has locus standi to do so in accordance with the law may request that the meeting be called.
3. The involvement of a lawyer and a court lawyer shall be mandatory to take part in these proceedings.

Article 131. *Procedure.*

1. The proceedings shall be initiated by means of a document requesting that the meeting be called, stating that the legal requirements in each case have been met and accompanied by the articles of association and, where appropriate, the syndicate regulations, the documents proving that the applicant has locus standi and those proving that the aforesaid requirements have been met.

Once the application has been accepted, the court clerk shall set a day and time for a court appearance, to which he shall summon the commissioner designated in the issue document and those requesting the meeting.

2. Once the appearance has taken place, he shall issue a decree, where appropriate, calling the general meeting of bondholders, in order to constitute the syndicate of bondholders, and may designate a new commissioner to replace an individual who has not fulfilled his obligation to call the meeting.

No appeal of any kind may be lodged against the decree ordering the general meeting to be called.

3. The court clerk shall call the meeting within one month of when the application was made, indicating the place, day and time of the meeting, together with its agenda, in accordance with the syndicate regulations and the content of the application.

CHAPTER VII

ON THE ROBBERY, THEFT, LOSS OR DESTRUCTION OF SECURITIES OR THE REPRESENTATION OF SHAREHOLDINGS

Article 132. *Scope of application.*

The provisions of this chapter shall apply where the adoption of the measures provided for in commercial legislation in cases of robbery, theft, loss or destruction of securities or the representation of shareholdings is requested.

Article 133. *Jurisdiction, locus standi and representation.*

1. The commercial court for the place of payment in the case of a credit instrument, the place of deposit in the case of deposit instruments or the registered office of the issuing entity in the case of negotiable securities, as appropriate, shall have jurisdiction.

2. The legitimate holders of securities who have been dispossessed of them, as well as those whose securities have been lost or destroyed, shall have locus standi to initiate the proceedings regulated in this chapter.

3. The involvement of a lawyer and a court lawyer shall be mandatory to take part in these proceedings.

Article 134. *Making a formal complaint in the case of securities admitted to trading on official secondary markets.*

1. An individual having locus standi in accordance with the preceding article may, where their security is admitted to trading on any stock exchange or other official secondary market, contact the governing body of the official secondary market relevant to the registered office of the issuing entity to report the robbery, theft, destruction or loss of the security.

2. The governing body of the relevant official secondary market shall inform the governing bodies of other markets, who shall publish the fact on their noticeboards to prevent the transfer of the affected security or securities. The report shall also be published in the Boletín Oficial del Estado (Official National Gazette) and, where the individual reporting the fact requests it, in a widely read newspaper of their choice.

3. The individual reporting the fact must request the initiation of the proceedings regulated in this chapter within nine days of lodging the complaint.

4. If the governing body of the official secondary market is not notified of the proceedings having been initiated, it shall lift the ban on the securities, shall inform the governing bodies of the other stock exchanges or official markets of that fact and shall announce it on their noticeboard.

Article 135. *Procedure.*

1. The proceedings shall be initiated by means of a document in which the interested party shall justify their right to bring them. Where the dispossession of the security has been reported to the governing body of the relevant official secondary market, that fact must be stated, together with the date on which the complaint was made.

2. Once the proceedings have been initiated, the court clerk shall inform the issuer of the securities and, in the case of a security admitted to trading, the governing body of the relevant official secondary market, for the purposes set out in the preceding article.

3. The court clerk shall order the initiation of the proceedings to be announced in the Boletín Oficial del Estado (Official National Gazette) and a widely read newspaper of that province and shall summon anyone who may have an interest in the proceedings..

4. Once the appearance has taken place, the court clerk shall issue a decree announcing his decision on a ban on trading or transferring the securities, suspending payment of the capital, interest or dividends, or depositing the goods, as appropriate in view of the security in question, and, where appropriate he shall confirm the ban on trading ordered by the governing body of the relevant official secondary market.

5. Without prejudice to the provisions of the preceding section, in the case of a security representing goods, it shall not be appropriate to deposit the goods if they are impossible, difficult or very expensive to keep or run the risk of serious deterioration or significantly decreasing in value. In that case, the court clerk, after hearing the holder of the security, shall request that the bearer or depository deliver the goods to the applicant, where the applicant has provided sufficient security to cover the value of the goods deposited, plus possible compensation for harm and loss to the holder of the security if it is subsequently proved that the applicant was not entitled to the delivery.

6. At the request of the applicant, the court clerk may appoint a director to exercise rights to attend and vote at general and special meetings of shareholders relating to negotiable securities, as well as to challenge company resolutions. The applicant shall be responsible for paying the appointed individual.

7. Where six months have passed without any dispute arising, the court clerk shall authorise the applicant to receive the yield produced by the security, informing the issuer, at the request of the applicant, to enable the issuer to make payment.

The court clerk may, if he deems it necessary, require the recipient of the yield to provide security to guarantee the return of that yield, where appropriate.

8. Where a year has passed without opposition, the court clerk shall order the issuer to issue new securities to be delivered to the applicant.

9. In no event shall it be legitimate to cancel the security or securities, if the current holder lodges an objection and acquired them in good faith in accordance with the law on the circulation of that security.

Where it is not legitimate to cancel the security or securities, the individual who was the legitimate holder at the time when possession was lost shall

be entitled to bring the relevant civil or criminal actions against anyone who acquired possession of the document in bad faith.

CHAPTER VIII

ON THE APPOINTMENT OF LOSS ADJUSTERS IN RELATION TO INSURANCE CONTRACTS

Article 136. *Scope of application.*

The proceedings regulated in this chapter shall apply where, in relation to an insurance contract and in accordance with its specific legislation, there is disagreement between the loss adjusters appointed by the insurer and the insured as regards determining the damage done and those loss adjusters are not satisfied with the appointment of a third party.

Article 137. *Jurisdiction, locus standi and representation.*

1. The commercial court for the legal address of the insured shall have jurisdiction to hear these proceedings.
2. Either of the parties to the insurance contract, or both jointly, may bring these proceedings.
3. The involvement of neither a lawyer nor a court lawyer shall be mandatory for these proceedings.

Article 138. *Procedure.*

1. The proceedings shall be initiated by means of document submitted by either of the interested parties setting out the disagreement between the loss adjusters appointed by the interested parties as regards assessing the damage done and requesting the appointment of a third loss adjuster. The document shall be accompanied by the insurance policy and the loss adjusters' reports.
2. Once the application has been accepted, a date shall be set for a court appearance, at which the court clerk shall urge the parties to reach agreement on the appointment of another loss adjuster and, where they cannot agree, shall appoint one in accordance with the provisions of the Civil Procedure Rules.

3. Once the appointment has been established, the appointed individual shall be informed so that they can accept or refuse the role, which they may do on reasonable grounds.

4. Having accepted the role, they shall be formally appointed and must issue the report within thirty days, which shall be incorporated into the proceedings, bringing them to a conclusion.

TITLE IX
ON CONCILIATION

Article 139. *Legitimacy of conciliation.*

1. Conciliation may be attempted in accordance with the provisions of this title in order to reach an agreement which avoids a lawsuit.

The use of these proceedings for purposes other than those stated in the preceding paragraph and which imply a manifest abuse of rights or involve legal or procedural fraud shall result in the request being wholly inadmissible.

2. Requests for conciliation shall not be accepted where they concern:

1. Trials involving minors or individuals whose capacity has been modified by a court for the free administration of their goods.
2. Trials involving the state, the autonomous regions or other public authorities, corporations or institutions of a similar nature.
3. Claims for civil liability against judges and senior judges.
4. In general, proceedings regarding matters not admitting of settlement or compromise.

Article 140. *Jurisdiction.*

1. The Justice of the Peace or court clerk of the court of first instance, or the commercial court, where the matters concerned fall within its jurisdiction, for the legal address of the summoned party shall have jurisdiction to hear these conciliation proceedings. Where that address is not in Spanish territory, it shall be the court for their last place of residence in Spain. The above notwithstanding, if the amount of the claim is less than 6,000 euros and the matters in question are not the responsibility of the commercial courts, then the proceedings shall be heard by Justices of the Peace.

If the summoned party is a incorporated entity, the relevant court for the legal address of the applicant shall likewise have jurisdiction, provided that in that place the summoned party has a regional office, branch, establishment or office open to the public, or a representative authorised to act on behalf of the entity, and that fact must be proved.

If having made the relevant inquiries regarding the legal address or place of residence they prove fruitless or the party summoned to conciliation is located in another judicial district, the court clerk shall issue a decree or the Justice of the Peace shall issue an order terminating the proceedings, recording the circumstances and reserving the right of the applicant for conciliation to bring new proceedings before the proper court.

2. Where questions arise regarding the court's jurisdiction or objections are raised to the court clerk or Justice of the Peace hearing the conciliation proceedings, the appearance shall be deemed to have been attempted, without any further formalities.

Article 141. *Application.*

1. The party attempting conciliation shall submit an application to the competent body, in writing, stating the identifying details and circumstances of the applicant and the party or parties summoned to conciliation, the legal address or addresses at which they may be summoned, the purpose of the intended conciliation and the date, clearly and accurately stating the purpose of the agreement.

The applicant may also submit their application for conciliation by filling in standardised forms, which the relevant body shall make available to them for the purpose.

2. The application may be accompanied by any documents which the applicant deems appropriate.

3. The involvement of neither a lawyer nor a court lawyer shall be mandatory for conciliation proceedings.

Article 142. *Acceptance, setting the date and time and summoning the parties.*

1. Within five days of the application being submitted, the court clerk or the Justice of the Peace shall issue a decision regarding its acceptance and

shall summon the interested parties, indicating the day and time when the conciliation hearing must take place.

2. There must be at least five days between summoning the parties and the conciliation hearing. In no event may the conciliation hearing take place more than ten days after the application is accepted.

Article 143. *Effects of acceptance.*

The submission and subsequent acceptance of the application for conciliation shall interrupt any limitation periods, whether they relate to the acquisition or the extinction of rights, under the terms and with the effects stipulated by law, from the moment of its submission.

The limitation period shall continue to run from the moment the court clerk issues a decree, or the Justice of the Peace issues an order, bringing the proceedings to an end.

Article 144. *Appearance at the conciliation hearing.*

1. The parties must appear on their own behalf or represented by a court lawyer and the rules on representation contained in Title I of Book I of the Civil Procedure Rules shall apply.

2. Where the applicant does not appear and does not give a valid reason for not attending, he shall be deemed to have abandoned the process and the proceedings shall be dismissed. Where the applicant is not able to demonstrate reasonable grounds for his failure to appear, the summoned party may claim compensation from him for any harm and loss incurred as a result of the appearance. The applicant shall be informed of the claim for five days and the court clerk or the Justice of the Peace shall decide, without any subsequent appeal, setting, where appropriate, the appropriate compensation.

3. If the party summoned to conciliation does not appear and does not give a valid reason for not attending, the hearing shall be brought to an end and the conciliation shall be deemed to have been attempted for all legal purposes. Where there are various summoned parties, if only one or some of them attend, the hearing shall take place and shall be deemed to have been attempted as regards those who did not attend.

4. If the court clerk or Justice of the Peace, as appropriate, deems the valid reason given by the applicant or the summoned party for not attending

to have been duly proved, he shall set a new day and time for the hearing within five days of the decision to suspend the proceedings.

Article 145. *The conciliation hearing.*

1. At the conciliation hearing, the applicant shall set out his claim, stating the grounds for it; the summoned party shall answer what he deems appropriate and the parties may produce or provide any documents which support their statements. If there is no agreement between the parties, the court clerk or the Justice of the Peace shall attempt to reconcile their positions, allowing them to ask and answer questions, if they wish and if doing so may facilitate agreement.

2. If any matter is raised which could prevent the conciliation from validly continuing, it shall be brought to a close and the conciliation shall be deemed to have been attempted, without any further formalities.

3. If there is agreement between the parties with regard to all or part of the purpose of the conciliation, a detailed record shall be made of everything they agree on and the fact that the hearing ended with agreement, together with the terms of that agreement, shall be included in the record, which must be signed by those present. Where it is not possible to reach any agreement whatsoever, a record shall be made that the hearing ended without agreement.

4. Where possible, the hearing shall be recorded on a medium suitable for recording and producing sound and images, in accordance with the provisions of the Civil Procedure Rules. At the end of the hearing, the court clerk shall issue a decree, or the Justice of the Peace shall issue an order, recording the agreement or, where appropriate, that the hearing was attempted without success or that no agreement was reached, and ordering the definitive discontinuance of the proceedings.

Article 146. *Certification and costs.*

The parties may request a certified copy of the record which brings the hearing to an end.

The costs incurred by the conciliation hearing shall be met by whoever brought the proceedings.

Article 147. Enforcement.

1. For the purposes provided for in article 517.2.9 of the Civil Procedure Rules, the certified copy of the record of the hearing, together with that of the decree issued by the court clerk or the order issued by the Justice of the Peace recording the agreement between the parties at the hearing, shall be enforceable.

For other purposes, what is agreed shall have the value and effect of an agreement recorded in a formal and public document.

2. The court which handled the conciliation shall be responsible for enforcement in the case of matters which fall within the jurisdiction of the court. Otherwise, the court of first instance which would have had jurisdiction to hear the matter shall be responsible for enforcement.

3. Enforcement shall be carried out in accordance with the provisions of the Civil Procedure Rules for the enforcement of court decisions and judicially approved agreements.

Article 148. Annulment action.

1. An annulment action may only be brought against what is agreed at the conciliation hearing on the grounds which invalidate contracts.

2. The application to bring such an action must be lodged with the competent court within fifteen days of the conciliation hearing and shall be handled according to the procedure appropriate to the subject matter or amount in question.

3. Once the annulment action has been acknowledged, enforcement of what was agreed at the conciliation hearing shall be suspended until a final decision is issued regarding the action brought.

ADDITIONAL PROVISIONS

First additional provision. *References contained in the legislation*

1. References made by laws with a date earlier than that of this Act to the jurisdiction of the judge with regard to non-contentious proceedings shall be understood to refer to the judge or the court clerk in accordance with the provisions of section 3 of article 2 of this Act.

Likewise, references which appear in regulations with a date earlier than that of this Act relating to the Civil Procedure Rules as regards non-contentious proceedings shall be understood to refer to this Act.

2. References which appear in regulations with a date earlier than that of this Act to judicial separation or divorce shall be understood to refer to legal separation or divorce. In the same regard, existing references to 'separación de hecho por mutuo acuerdo que conste fehacientemente' (de facto separation by mutual agreement of which there is reliable record) must be understood to refer to notarially recorded separation.

3. References made in this Act to the Civil Code or to civil legislation must also be understood to refer to the autonomous or special civil laws of the autonomous regions where they exist.

Second additional provision. *Judicial regime applicable to fostering minors*

1. Proceedings to constitute the fostering of minors shall be governed by the common provisions laid down in this Act, with the following special features:

a) Where they require a judicial decision, they shall be brought by the public prosecution service or by the relevant public body, with the proposal submitted by that body having to contain the statements stipulated in civil legislation.

The judge shall obtain the consent of the public body, where it is not bringing the proceedings, and of those who are receiving the minor; he

shall also obtain the consent of the minor, if over 12 years of age, and of the parents, where they have not been deprived of parental authority or had their exercise of it suspended, or, where appropriate, of the minor's guardian.

The parents may not state in the proceedings whether or not there were grounds of neglect or whether, if there were, they arose after reinstatement.

Once the consent has been obtained and the relevant parties have been heard with due respect for confidentiality, the judge shall issue the appropriate decision in the interests of the minor within five days.

b) Where it has not been possible to establish the legal address or whereabouts of the parents or guardians, having exhausted the measures provided for in section 1 of article 156 of the Civil Procedure Rules, or having been summoned in person they do not appear, the formality shall be dispensed with and the judge shall decide regarding the foster care.

c) If the parents inform the court which is hearing the relevant proceedings that they intend to challenge the declaration of neglect by lodging a claim, or bringing proceedings for reinstatement, the court clerk shall suspend the proceedings and set a time limit of twenty days for the claim to be submitted. Once the claim has been submitted, the court may suspend the proceedings until a decision has been issued with regard to that claim. If the claim is not submitted within the set time limit, the court clerk shall continue to advance the proceedings.

2. Proceedings to terminate court-ordered foster care shall be initiated ex officio or at the request of the minor, their legal representative, the relevant public body, the public prosecution service or the foster carers.

After hearing the public body, the minor, their legal representative and the foster carers, and after a report from the public prosecution service, the judge shall decide as appropriate within five days.

3. Proceedings to adopt measures in matters arising concerning relations between minors in foster care and their parents, their grandparents and other relatives and close friends shall be handled by the court of first instance for the headquarters of the public body entrusted with the protection of the minor. However, if the foster care was established by a judicial decision, the court of first instance which ordered it shall have jurisdiction to hear the proceedings.

The minor, both parents, individually or jointly, the minor's grandparents and other relatives and close friends shall have locus standi in these proceedings.

If the judge deems it appropriate to adopt measures, the decision shall establish the rules regarding the minor's relations with the applicant or applicants and regarding the minor staying and communicating with them, together with any other measures regarding their relations which are appropriate in the case.

4. These rules shall apply until the laws changing the system for protecting infants and adolescents enter into force.

Third additional provision. *Inclusion in public registers of foreign public documents*

1. A foreign public document which was not issued by a judicial body may be used to register the fact or act to which it attests provided that it satisfies the following requirements:

- a) The document was executed by a competent foreign authority in accordance with the legislation of that state.
- b) The foreign authority was involved in the production of the document, performing functions equivalent to those performed by Spanish authorities in the matter in question, and the document has the same or very nearly the same effects in the country of origin.
- c) The fact or act contained in the document is valid in accordance with the rules under Spanish regulations relating to private international law.
- d) Registration of the foreign document is not manifestly incompatible with Spanish public order.

2. The judicial regime set out in this article for decisions issued by non-judicial foreign authorities shall apply to decisions issued by foreign courts, where, according to this Act, jurisdiction to hear those matters is conferred on non-judicial Spanish authorities.

Fourth additional provision. *Schedules of notarial and registration fees*

Within three months of their publication in the Boletín Oficial del Estado (Official National Gazette), the government shall approve the schedules of fees for the involvement of notaries and property and commercial registrars

in relation to the matters, records, public deeds, proceedings, acts and registrable transactions for which they have jurisdiction in accordance with the provisions of this Act.

In any event, the fees in proceedings for the notarial appointment of loss adjusters provided for in the insurance contract regulations shall be paid irrespective of the possible amount of the case assessed.

Fifth additional provision. *Amendments and regulatory developments*

The government shall introduce the amendments and regulatory developments necessary for the application of this Act.

Sixth Additional Provision. *Spending freeze*

The measures included in this instrument must not imply an increase in funding, salaries or other staffing costs.

TRANSITIONAL PROVISIONS

First transitional provision *Proceedings underway*

Proceedings affected by this Act which are underway at the time of its entry into force shall continue in accordance with the preceding legislation.

Second transitional provision. *Intestate successions in favour of the government*

1. Proceedings to declare the government intestate successor which are underway at the time this Act enters into force shall continue to be handled, until they are decided, in accordance with the preceding legislation, by the courts which were hearing them.

2. The distribution of the deceased's estate in the case of intestate successions in favour of the general state administration shall be carried out in accordance with the preceding legislation where, at the time this Act enters into force, the relevant notice has been published in the Boletín Oficial del Estado (Official National Gazette).

Third transitional provision. *Voluntary auction proceedings*

Voluntary auctions held up to 15 October 2015 shall be governed by the provisions of the Civil Procedure Rules approved by the Royal Decree of 3 February 1881.

Fourth transitional provision. *Adoption and marriage proceedings*

1. Adoptions initiated up to the entry into force of the law changing the system for protecting infants and adolescents shall be governed by the provisions of the Civil Procedure Rules approved by the Royal Decree of 3 February 1881.

2. Matrimonial proceedings initiated before 30 June 2017 shall continue to be handled by the register office official in accordance with the provisions of the Civil Code and the Civil Registration Act 1957, of 8 June.

Where the matrimonial proceedings are decided favourably by the register office official, the marriage may take place, at the discretion of the bride and groom, before:

1. The judge responsible for civil registration and Justices of the Peace delegated by that judge.
2. The mayor of the municipality where the marriage takes place or the councillor delegated by that mayor.
3. The court clerk or notary, freely chosen by both bride and groom, who has jurisdiction in the place where the ceremony takes place.
4. The diplomatic or consular official responsible for civil registration abroad.

Consent may be given in the manner provided for in the Civil Code and in the Civil Registration Act 1957, of 8 June, with the special features stated in this provision.

A marriage which takes place before a register office official, a Justice of the Peace, a mayor or councillor delegated by that mayor or a court clerk shall be recorded in a certificate; a marriage which takes before a notary shall be recorded in a public deed. In both cases, it must be signed by both bride and groom and two witnesses, together the official before whom it takes place.

Once the certificate has been issued or the public deed has been authorised, a copy proving that the marriage has taken place shall be given to both bride and groom and a certified copy, or authorised electronic copy, of the document shall be sent by the authorising official that same day, by telematic means, to the register office for registration, after approval by the register office official.

Fifth transitory provision. *Marriages celebrated by the Protestant, Jewish and Muslim religious faiths and those which have obtained recognised deeply rooted status in Spain*

1. Until the fifth final provision of this Act enters into force, the provisions of article 7 of Law 24/1992, of 10 November, approving the state cooperation agreement with the Spanish Federation of Protestant Religious Bodies shall apply to Protestant religious marriages, apart from section 5, which shall be worded as follows:

«5. Once the marriage ceremony has taken place, the officiating minister of religion shall issue a certificate stating that it has taken place, with the necessary requirements for its registration and stating the identity of the witnesses and the details of the prior proceedings, which must include the name and surnames of the register office or diplomatic or consular official who issued the certificate. The certificate shall be sent by electronic means, in accordance with the regulations, together with certification to prove the status of the minister of religion, within five days, to the relevant register office official for registration. He shall also formally note in the two copies of the ruling on capacity to marry that the marriage has taken place, giving one to the bride and groom and retaining the other as a record of the marriage in the archive of the officiant or of the religious body he represents as a minister of religion.»

2. Until the sixth final provision of this Act enters into force, the provisions of article 7 of Law 25/1992, of 10 November, approving the state cooperation agreement with the Spanish Federation of Israelite Communities shall apply to Jewish religious marriages, apart from section 5 of article 7, which shall be worded as follows:

«5. Once the marriage ceremony has taken place, the officiating minister of religion shall issue a certificate stating that it has taken place, with the necessary requirements for its registration and stating the identity of the witnesses and the details of the proceedings, which must include the name and surnames of the register office or diplomatic or consular official who issued the certificate. The certificate shall be sent by electronic means, in accordance with the regulations, together with certification to prove the status of the minister of religion, within five days, to the relevant register office official for registration. He shall also formally note in the two copies of the prior ruling on capacity to marry that the marriage has taken place, giving one to the bride and groom and retaining the other as a record of the marriage in the archive of the officiant or of the religious body he represents as a minister of religion.»

3. Until the seventh final provision of this Act enters into force, the provisions of article 7 of Law 26/1992, of 10 November, approving the state cooperation agreement with the Spanish Islamic Commission shall apply to Islamic religious marriages, apart from section 3 of article 7, which shall be worded as follows:

«3. Once the marriage has taken place, the representative from the Islamic Community in which said marriage was performed, shall

accredit the same, by certification, following the necessary requirements for registration and including the details of the circumstances of the proceedings, which must include the name and surnames of the register office registrar, or diplomatic or consular official who issued the certificate. The certificate shall be issued by electronic means, in the format determined by regulations, together with certification accrediting the Islamic community representative's competency to perform marriages, pursuant to the stipulations of section 1 of article 3, within five days, to the competent registrar for registration. Two copies of the prior judgement on express matrimonial capacity shall be provided, with one being given to the spouses and the other to be kept in the Community archives as a record of the act.»

4. Until article 58 bis of Law 20/2011, of 22 July on the Register Office comes into force, religious marriages performed in the manner set forth by churches, denominations, religious communities or federations registered in the Religious Entities Register that have obtained recognition as deeply rooted in Spain, shall require the prior judgement of matrimonial capacity. Once this procedure has been followed, the registrar, or diplomatic or consular official who presided, shall issue two copies of the judgement, which shall always include accrediting certification of the couples' judgement of matrimonial capacity, which said couple must submit to the minister of worship performing the ceremony.

Consent must be submitted to a minister of worship and two witnesses of age. In these cases, the consent must be submitted before six months have transpired from the date of issue of the certificate of matrimonial capacity.

For this purpose, a minister of worship shall be considered an individual, of a stable character, dedicated to the functions of religious assistance or worship and who is accredited as fulfilling these requirements through certification issued by the church, denomination or religious community that has obtained recognised deeply rooted status in Spain, in conformance with the federation who, when relevant, requested said recognition.

Once the marriage has taken place, the official shall accredit the same, by certification, following the necessary requirements for registration and including the details of the identity of the witnesses and the circumstances of the prior proceedings, which must include the name and surnames of the registrar, or diplomatic or consular official who issued performed the proceedings. The certificate shall be sent by electronic means, in accordance with the regulations, together with certification to prove the

status of the minister of religion, within five days, to the relevant register office official for registration. Two copies of the prior judgement of express legal matrimonial capacity shall also be provided, with one being given to the spouses and the other to be kept in the official's archives or those of the religious entity that the minister of worship represents, as a record of the act.

REPEAL PROVISION

Single repeal provision. *Repeal of regulations.*

- 1.** Articles 4, 10, 11, 63, 460 to 480, 977 to 1000, 1811 to 1879, 1901 to 1918, 1943 to 2174 of the Law of Civil Procedure approved by Royal Decree on 3 February 1881, are repealed.
- 2.** Article 316 of the Civil Code is repealed.
- 3.** Articles 84 to 87 of Law 19/1985, of 16 July, Exchange and Cheques, are repealed
- 4.** Likewise, any legislation which may oppose or contradict the provisions set forth herein shall be deemed to have been repealed, pursuant to section 2, Article 2 of the Civil Code.

FINAL PROVISIONS

First final provision. *Amendment to specific articles of the Civil Code.*

The Civil Code is amended as follows:

One. Article 47 is edited in the following manner:

«Article 47. Neither may marriage be conducted between:

1. (...)

2. (...)

3. Parties convicted of having participated in the wilful death of a spouse or person with whom they were connected by any relationship analogous to that of a spouse.»

Two. Article 48 is amended:

«The Judge may, with just cause and at the request of the either party, by way of prior judgement issued through non-contentious proceedings, waive the impediments of wilful death of a spouse or person with whom they were connected by relationship analogous to that of a spouse or a third degree collateral relation. The previous waiver, from the point of issue, validates any marriage whose annulment was not legally sought in any court by either party.»

Three. Article 49 is edited in the following manner:

«Any Spanish national may contract marriage within or outside Spain:

1st. In the manner regulated by this Code.

2nd. In the religious manner set forth by law.

They may also contract marriage outside Spain, arranged in the manner set forth in the law of the place in which it is performed.»

Four. The contents of the second section of Chapter III of Title IV of Book I are edited as follows:

«Second section. On the celebration of marriage»

Five. Article 51 is edited in the following manner:

«Article 51.

1. The jurisdiction to fulfil, by way of records or proceedings, the completion of requirements of capacity for both parties to be married and the non-existence of impediments or the waiver thereof, or any type of obstacle to contracting marriage shall fall to the clerk of the court, notary, or register office registrar in the place of residence of one of the couple or to the diplomatic or consular officer of the register office if they reside outside of Spain.

2. The following shall be competent to perform the marriage:

1st. The justice of the peace or mayor of the town in which the marriage is being performed, or councillor designated by the same.

2nd. The clerk of the court or notary freely chosen by both parties to be married, who has jurisdiction in the district in which the marriage is to be performed.

3rd. The diplomatic or consular official who is registrar outside of Spain.»

Six. Article 52 is edited in the following manner:

«The following may perform marriages for those deemed at risk of death:

1st. The justice of the peace, mayor or delegated councillor, notary or functionary referred to in article 51.

2nd. The chief officer or immediate superior of military service personnel on campaign.

3rd. The captain or commander, with regards to any marriages that are performed on board any ship or aircraft.

The celebration of a marriage performed under risk of death shall not require the prior issue of matrimonial licences or proceedings, but it shall require the presence of two witnesses of age and, when the risk of death arises from an illness or the physical condition of one of the parties to be married, a medical statement regarding their capacity to

consent and on the gravity of the situation, unless there is a proven impossibility of the same, without prejudice to the stipulations of article 65.»

Seven. Article 53 is edited in the following manner:

«The validity of the marriage shall not be affected by incompetence or misdemeanour in the appointment of the justice of the peace, mayor, councillor, clerk of the court, notary or official before whom it was celebrated, as long as at least one of the spouses proceeded in good faith and they performed their functions publicly.»

Eight. Article 55 is edited in the following manner:

«One of the parties to be married may contract marriage via proxy, which must be granted by official power of attorney. The other party must always be physically present.

Under the power of attorney the individual with whom they are to be married shall be determined, together with a statement of the exact personal circumstances establishing their identity. This must be validated by the clerk of the court, notary, registrar or official who performs the license or matrimonial proceedings prior to the marriage.

The power of attorney shall cease by way of revocation by the granter, the withdrawal of the agent or the death of either party. In the case of revocation by the granter, their verified physical attendance before the celebration of the marriage shall be sufficient. The revocation shall be immediately notified to the clerk of the court, notary, registrar or official who performed the licence or proceedings prior to the marriage and, if already completed, to whomever was going to perform the marriage.»

Nine. Article 56 is edited in the following manner:

«Whosoever wishes to contract marriage shall accredit, by way of prior licence or legal proceedings, pursuant to register office legislation, that they meet the requirements for capacity and that there exists either no impediment or a waiver thereof, in accordance with the stipulations of this Code.

If either party to be married is affected by mental, intellectual or sensorial impairment, a medical statement on their capacity to consent shall be required by the clerk of the court, notary, registrar or official who performs the licence or proceedings.»

Ten. Article 57 is edited in the following manner:

«A marriage processed by the clerk of the court or consular or diplomatic official may be performed by the same individual or another, or before a justice of the peace, mayor or designated councillor, according to the wishes of the couple. If it has been processed by the registrar, the marriage must be performed by the justice of the peace, mayor or designated councillor nominated by the couple.

Finally, if a notary issued the marriage licence, the couple may choose to grant consent to the same notary who processed the prior licence or another, a justice of the peace, mayor, or designated councillor.»

Eleven. Article 58 is edited in the following manner:

«After having read articles 66, 67 and 68, the justice of the peace, mayor, councillor, clerk of the court, notary, or official, shall ask each of the parties to be married if they consent to contract in marriage with the other and if indeed they contract it through said act and, responding both in the affirmative, shall declare that the couple are joined in matrimony and shall record the minutes or authorise the corresponding deeds.»

Twelve. Article 60 is edited in the following manner:

«1. Marriage performed in accordance with the regulations of canon law or any other religious manner set forth in the agreements between the state and religious denominations, shall produce civil effects.

2. In the same way, civil effects shall be recognised for marriages celebrated in the religious manner set forth by any of the churches, denominations, religious communities and federations that, registered in the Religious Entities Register, have obtained deeply rooted status in Spain.

In such a situation, recognition of civil effects shall require the following requirements to be fulfilled:

- a) The prior issue of a licence or proceedings of matrimonial capacity, carried out in accordance with register office regulations.
- b) The free demonstration of consent before a duly accredited minister of worship and two witnesses of age.

The status of minister of worship shall be accredited by way of certification issued by the church, denomination or religious community

that has obtained deeply rooted status in Spain, in accordance with the federation that, when relevant, requested said recognition.

3. For full recognition of the civil effects of a marriage celebrated in a religious ceremony, the stipulations of the following Chapter shall apply.»

Thirteen. Article 62 is edited in the following manner:

«The celebration of the marriage shall be performed by way of records or public deed that shall be signed by whoever performs said ceremony, the married couple and two witnesses.

Once the record is issued or the public deed authorised, the authoriser shall issue an accrediting copy of the marriage to the competent register office, for its registration, after prior verification by the official responsible for the same.»

Fourteen. Article 63 is edited in the following manner:

«Registration of any religious marriage performed in Spain shall be completed by simply submitting the certificate to the corresponding church, denomination, religious community or federation. The certificate must include the details required by register office regulations.

Registration shall be denied when either the documents submitted or the register records show that the marriage does not fulfil the requirements for validation required by this Title.»

Fifteen. Article 65 is edited in the following manner:

«In cases where the marriage was performed without having passed first through the prior license or proceedings, where said proceedings were necessary, the clerk of the court, notary or diplomatic or consular official responsible for the register office who performed it, before completing the proceedings necessary for registration, must first verify whether the legal requirements for validation are fulfilled, by way of processing the license or proceedings to which this article refers.

If the marriage was performed before a person or authority other than those indicated in the previous paragraph, the record of said marriage shall be issued to the registrar competent in the district in which it was performed, in order for said registrar to proceed with the verification process to take place through the relevant proceedings. Once

verification has taken place, the registrar shall proceed to register the event.»

Sixteen. The third point of article 73 is amended to read the following:

«3rd. Whosoever contracts marriage without the intervention of a justice of the peace, mayor or councillor, clerk of the court, notary or official before whom it must be performed, or without witnesses.»

Seventeen. The first paragraph of article 81 is edited in the following manner:

«Legal separation shall be decreed when there are non-emancipated minors or persons with amended legal capacity such that they depend on their parents, however the marriage celebration was performed.»

Eighteen. Article 82 is edited in the following manner:

«1. The spouses may mutually agree their separation after three months has transpired since the celebration of their marriage, by way of a binding agreement before the clerk of the court or in public deeds before a notary, in which, as well as expressing their unequivocal desire to separate, they must detail the measures to be taken to regulate the effects arising from the separation, in accordance with the stipulations of article 90. Diplomatic or consular officials may not authorise public deeds of separation while performing their notarial functions.

The spouses must personally intervene in the proceedings to provide their consent before the clerk of the court or the notary, without prejudice to the fact they must be represented by a practising barrister. Equally, children of age or emancipated minors must grant their consent before the clerk of the court or the notary with respect to any measures that affect them due to lack of own income or living in the family home.

2. The stipulations of this article shall not be applicable if there are children not yet of age or not emancipated, or with legally amended capacity, through which they depend on their parents.»

Nineteen. Article 83 is edited in the following manner:

«The judgement or decree of separation or the granting of binding public deeds of agreement to separate, produces the suspension of the spouses' common life and ceases the possibility of linking the other spouse's goods as part of the exercise of domestic powers.

The effects of matrimonial separation shall be produced from the time of signing the judgement or decree declaring the same, or from the declaration of both spouses' consent to grant the public deeds, pursuant to the stipulations of article 82. Record of the judgement or decree, or copy of the public deeds in the register office shall be registered, without full effects being produced regarding bona fide third parties, until this takes place.»

Twenty. Article 84 is edited in the following manner:

«Reconciliation terminates the separation proceedings and causes the final effects of separation to cease, but both spouses must separately inform the Judge who resolves or resolved the litigation. Notwithstanding the previous point, any measures adopted with regards to the children shall be maintained or amended through judicial decision, should sufficient cause exist.

When separation took place without legal intervention, in the manner detailed in article 82, the reconciliation must be formalised by public deeds or statement of declaration.

The reconciliation must be recorded in the corresponding register office, for validity against third parties.»

Twenty-one. Article 87 is edited in the following manner:

«The spouses may also agree their divorce via mutual agreement by way of binding agreement before the clerk of the court or in public deeds before the notary, in the manner and with the content regulated in article 82, fulfilling the same requirements and details required within said article. Diplomatic or consular functionaries may not authorise public deeds of divorce while performing their notarial functions.»

Twenty two. Article 89 is edited in the following manner:

«The effects of dissolution of marriage through divorce shall be produced from the time of signing the judgement or decree declaring the same, or from the declaration of both spouses' consent to grant the public deeds, pursuant to the stipulations of article 87. Bona fide third parties shall not be prejudiced except with regards to their registration in the register office.»

Twenty three. Article 90 is amended to read the following:

«1. The binding agreement referred to in articles 81, 82, 83, 86 and 87 must contain, when applicable, at least the following items:

- a) The care of any children subject to parental authority, the fulfilment of said responsibility and, when relevant, the schedule for communication and living arrangements for the children's contact with the parent who does not habitually reside with them.
- b) A schedule for visits and communication for grandchildren with their grandparents is considered necessary, while always bearing in mind the children's interest.
- c) Allocation of the use of the family home and household items.
- d) Contribution to matrimonial costs and upkeep, including updating records and guarantees, as appropriate.
- e) Liquidation, when relevant, of the matrimonial financial regime.
- f) Any pension belonging to one of the spouses, when relevant, pursuant to the stipulations of article 97.

2. The binding spousal agreements adopted regarding the consequences of annulment, separation or divorce, submitted before the judicial body, shall be approved by the Judge unless they are harmful to the children or gravely prejudicial against one of the spouses.

If the parties propose a schedule of visits and communication for grandchildren with their grandparents, the Judge may approve this via prior audience with the grandparents, in which said grandparents grant their consent. Refusal of the agreements must be via justified final decision and, this being the case, the spouses must submit a new proposal for the Judge's approval.

If the spouses formalise the agreements before the clerk of the court or the notary and these officials consider that, in their judgement, one of them may be harmfully or gravely prejudicial to one of the spouses or the affected children not yet of age, or emancipated minors, they will notify the parties and close the proceedings. In this case, the spouses may only appear before the Judge for the approval of the proposal for the regulatory agreement.

From the approval of the binding agreement or the granting of public deeds, the agreements may be made effective through judicial enforcement.

3. The measures legally adopted by the Judge in the absence of agreement by the spouses, may be legally amended or a new agreement may be approved by the Judge, in accordance with new necessities regarding the children or a change in circumstances of the

spouses. Any measures agreed before the clerk of the court of in public deeds may be modified by a new agreement, subject to the same requirements demanded by this Code.

4. The Judge or the parties may establish the collateral or personal guarantees required for the fulfilment of the agreement.»

Twenty four. The first paragraph of article 95 is amended to read as follows:

«The final decision, the decree absolute or the public deeds that formalise the binding agreement, when relevant, shall produce, with respect to the matrimonial goods, the dissolution or cessation of the matrimonial financial regime and shall approve the liquidation thereof, if there was a mutual agreement regarding the same between the spouses.

If the annulment sentence establishes bad faith on the part of one of the spouses, the party who has proven good faith may decide to apply for liquidation of the matrimonial financial regime relating to the shared regime and the party of bad faith shall not have the right to participate in the earnings obtained by their spouse.»

Twenty five. The last paragraph of article 97 is edited in the following manner:

«In the judicial decision or the legalised binding agreement before the clerk of the court or the notary, the regularity, the form of payment, the bases for updating any pensions, the duration or date of termination and the guarantees for effectiveness, shall all be fixed.»

Twenty six. Article 99 is edited in the following manner:

«It shall be possible at any time, to agree on the substitution of a fixed pension, either legally or by legalised binding agreement, pursuant to article 97, by the constitution of a lifelong income, usufruct of specific goods or the submission of capital in goods or money.»

Twenty seven. Article 100 is edited in the following manner:

«Once the pension and its bases for update are fixed in the separation sentence or divorce, they may only be amended by changes in the fortune of one or other of the spouses, as advised.

The pension and its bases for update fixed in the binding agreement legalised before the clerk of the court or notary, may be amended via a

new agreement, subject to the same requirements detailed in this Code.»

Twenty eight. Section 2 of article 107 is edited in the following manner:

«2. Legal separation and divorce shall be governed by European Union and Spanish regulations on international civil law.»

Twenty nine. The second paragraph of article 156 is edited in the following manner:

«In the event of disagreement, either of the two parties may appear before the Judge who, after hearing both parties and the child, if they be of sufficient maturity and over twelve years old, shall be granted the facility of choosing between the father or the mother. If the disagreements are reiterated or there be any other cause to seriously hinder the fulfilment of parental authority, it may be totally or partially allocated to one of the parents or the functions divided between the two. This measure shall be valid for the period for which it is set, which may never exceed two years.»

Thirty. The last paragraph of article 158 is edited in the following manner:

«All these measures may be adopted within any civil or criminal proceedings or as part of non-contentious proceedings.»

Thirty one. Article 167 is edited in the following manner:

«If the parents' administration puts the child's assets at risk, at the request of the child themselves, the public prosecution services or any of the minor's relatives, the Judge may adopt any measures deemed necessary for the security and recovery of the goods, demand security or bonds for their continuation in administration and even name an administrator.»

Thirty two. The first paragraph of section 3 of article 173 is edited in the following manner:

«3. If the parents or guardian do not consent or they oppose the same, fostering may only be agreed by the Judge, in the interests of the minor, pursuant to the procedures set out in the Law on Non-Contentious Proceedings. The public entity's proposal shall contain the same items referred to in the previous point.»

Thirty three. The first paragraph of section 2 of article 176 is amended to read the following:

«2. In order to start adoption proceedings, a prior proposal from the public entity is necessary, in favour of the adopter or adopters that said public entity has declared eligible for the exercise of parental authority. The declaration of eligibility must be made prior to the proposal.»

Thirty four. Section 2 of article 177 now reads as follows:

«2. The following must consent to the adoption:

1st. The spouse of the adopter or the person to whom they are connected by relationship analogous to that of a spouse, assuming that they are not also an adopter, unless they are legally separated.

2nd. The parents of any adoptee who is not emancipated, unless their parental authority was terminated by final decision or they are currently involved in legal proceedings for said termination. This situation may only arise in contentious legal proceedings regulated by the Law on Civil Procedure.

Consent shall not be necessary when those who must provide it are prevented from doing so by the judicial decision that constituted the adoption.

Consent may not be given by the mother until thirty days have transpired since the birth.»

Thirty five. Article 181 is edited in the following manner:

«In all situations, if a person has disappeared from their home or the place of their last residence, without any notice being received of them, at the request of the interested party or the public prosecution service, the clerk of the court may nominate a defence counsel to represent the missing party at any hearings or negotiations that cannot be delayed without serious harm. Cases in which the missing party is voluntarily and legitimately represented, pursuant to article 183, shall be exempt from this.

The present spouse who is of legal age and not legally separated shall be the natural representative and defence for the missing person and, should there be no spouse, it shall be the closest relative, also of age, until the fourth degree. In the absence of relatives, the non-attendance of the same or reasons of severe urgency, the clerk of the court shall nominate a solvent person of good record, via prior audience with the public prosecution services.

The following measures necessary for the conservation of assets may also be adopted, with reasonable discretion.»

Thirty six. The last paragraph of article 183 is edited in the following manner:

«The death or justified resignation of the representative, or the expiration of the mandate, determines legal absence, if on being produced, they are unaware of the whereabouts of the missing party and if one year has transpired since there was any news of said party and, failing that, since their disappearance. Once the declaration of the party's absence is registered in the register office, all rights regarding general or special mandates granted by the absent party are terminated.»

Thirty seven. Article 184 is edited in the following manner:

«Unless for a serious reason recognised by the clerk of the court, representation of the party declared absent, investigations on their person, the protection and management of their goods and fulfilment of their obligations shall fall to the following:

1st. Their present spouse who is of age and not legally or de facto separated.

2nd. Their child, of age. If there is more than one, the preference is for those who lived with the absent party and from oldest to youngest.

3rd. Their closest, youngest ascendant from either line.

4th. Their sibling, of age, who has lived in a family environment with the absent party, with preference for the older rather than younger.

In the absence of the aforementioned individuals, the obligations fall in their entirety to the solvent person of good record that the clerk of the court, after being heard by the public prosecution services, appoints in their reasonable discretion.»

Thirty eight. Article 185 is edited in the following manner:

«The absent party's representative must remain attentive to the following obligations:

1st. Inventory the movable goods and describe the fixed goods belonging to the represented party.

2nd. Provide the reasonable guarantee fixed by the clerk of the court. The issues covered by the 1st, 2nd and 3rd points of the previous article are exempt from this.

3rd. Preserve and protect the absent party's goods and assets and obtain the normal yields to which they are susceptible.

4th. Adjust to the regulations regarding the possession and management of the absent party's goods established in the Law on Civil Procedure.

The provisions governing the exercise of the guardianship and the causes of inability, removal or excuse of guardians, shall be applicable to the absent party's dative representatives, with respect to their special representation.»

Thirty nine. Article 186 is edited in the following manner:

«The legitimate representatives of the party declared absent, described in the 1st, 2nd, and 3rd points of article 184, shall enjoy temporary possession of the absent party's assets and shall make the liquid assets in the quantity indicated by the clerk of the court, their own, giving due consideration to the absent party's amount of gains, income and benefits, number of children and costs of upkeep for the same, care and attention required by the representation, tax conditions imposed on the assets and any other circumstances of a similar nature.

The legitimate representatives described in the 4th point of the aforementioned article shall also enjoy temporary possession of, and make their own, in the quantity indicated by the clerk of the court, the gains and income and benefits of the liquid assets. However, in no circumstance may they retain more than two thirds of these assets, reserving the remaining third for the absent party or, when relevant, for their heirs or successors.

The temporary possessors of the absent party's goods may not sell, tax, mortgage or pledge them, unless the clerk of the court recognises and declares it necessary or of obvious benefit. The clerk of the court, on authorising said proceedings, must determine the use of any amount gained.»

Forty. Article 187 is edited in the following manner:

«If, during the period of temporary possession or while exercising personal representation, an individual should prove their own right to said possession, the possession shall be withheld from the current

possessor but the individual shall only have rights over the products from the date on which they submitted their claim.

If the absent party reappears, their assets must be returned to them, not including any gains received, except in the case of intervening bad faith, in which case the return of assets shall also include any gains received and due to be received from the day on which the party reappeared, in accordance with a statement by the clerk of the court.»

Forty one. The 2nd, 3rd and 4th sections of article 194 are edited in the following manner:

«2nd. Those who are accredited as having been aboard a ship whose shipwreck or disappearance at sea has been proven, or aboard an aircraft whose incident has been verified and there is reasonable evidence of the survivors' absence.

3rd. Those from whom there has been no news after it has been accredited that they were aboard a ship whose shipwreck or disappearance at sea has been proven, or aboard an aircraft whose incident has been verified or, in the event of human remains having been found in such scenarios and been unable to be identified, after eight days have transpired.

4th. Those who are aboard a ship that is presumed shipwrecked or missing at sea due to not having reached its destination or, in the absence of a fixed point of arrival, has not yet arrived and there are reasonable indications of the absence of survivors. In either of these scenarios, after one month has transpired from the date of the last news received or, in the absence of such news, since the date the ship left the initial port of departure.

5th. Those who are aboard an aircraft that is presumed wrecked after having travelled across sea, desert areas or uninhabited areas, due to not having reached its destination or, in the absence of a fixed point of arrival, has not yet arrived and there are reasonable indications of the absence of survivors. In either of these scenarios, after one month has transpired from the date of the last news received regarding either individuals or the aircraft or, in the absence of such news, since the initial date of departure. If this was done in stages, the timescale indicated shall be calculated from the point of takeoff to when the latest news was received.»

Forty two. Article 196 is edited in the following manner:

«Once the declaration of death is signed for the absent party, the process for the succession of their goods shall be initiated and awarded in accordance with legal regulations.

The heirs may not receive free of charge until five years after the declaration of death.

Until this period has elapsed, no bequests shall be granted, if they should exist, nor shall the legatees have the right to claim them, excepting pious legacies for the salvation of the soul of the testator and bequests in favour of charitable organisations.

It shall be the successors' bounden duty, even if since there is only one, partition is not necessary, to create a detailed, notarised inventory of the moveable goods and a description of the fixed assets.»

Forty three. The contents of Chapter III of Title VIII of the first Book are amended:

«On registration in the register office.»

Forty four. Article 198 is edited in the following manner:

«The register office must receive declarations of disappearance, legal absence and death, in addition to legitimate agreements on personal representation and their expiration.

In the same way, they shall note the inventories of moveable goods and the description of fixed assets required by this Title; the decrees on concession and deeds on transfer and taxes that the legitimate dative representative effects on behalf of the absent parties; and the record of the description or inventory of goods, as well as the records of partition and award realised as a result of the declaration of death or by the acts of notarisation in the partition records in the respective cases.»

Forty five. Article 219 is edited in the following manner:

«Registration of the judgements referred to in the previous article shall be carried out pursuant to testimony issued to the register office registrar.»

Forty six. Article 249 is edited in the following manner:

«During proceedings for removal, the guardian's functions may be suspended and a new guardian appointed to the ward by the court.»

Forty seven. Article 256 is edited in the following manner:

«While issues concerning the excuse be resolved, whoever proposed said excuse shall be obliged exercise the function.

This not being the case, a defence counsel shall be nominated as substitute, who shall be responsible for all expenses arising from the excuse if it is rejected.»

Forty eight. Article 259 is edited in the following manner:

«The clerk of the court shall grant possession of duties to the nominated guardian.»

Forty nine. Article 263 is edited in the following manner:

«The clerk of the court shall extend this term by reasoned judgement if sufficient cause to do so exists.»

Fifty. Article 264 is edited in the following manner:

«The inventory shall be created before the clerk of the court with the intervention of the public prosecution service and by summoning the persons who the aforementioned deems necessary.»

Fifty one. Article 265 is edited in the following manner:

«Any money, jewellery, precious objects or moveable valuables or documents that, in the clerk of the court's judgement, should not be in the possession of the guardian, shall be deposited in an establishment designed for such a purpose.

The expenses arising from the aforementioned measures shall be borne by the ward's goods.»

Fifty two. Article 299 bis is edited in the following manner:

«When it is known that an individual must be placed under wardship or guardianship and no judicial decision is reached to conclude the proceedings, the public prosecution services shall assume their representation and defence. In this event, should the care of goods be needed in addition to that of the individual, the clerk of the court may

designate a court-appointed guardian to manage the same, who must submit accounts of their management once their duties have concluded.»

Fifty three. Article 300 is edited in the following manner:

«In ex officio non-contentious proceedings, or at the request of the public prosecution service, the minor themselves or any other individual capable of appearing in court, a defence counsel deemed most suitable for the duty shall be appointed.»

Fifty four. Article 302 is edited in the following manner:

«The court-appointed guardian shall have the attributes granted to them and must submit accounts of their management once their duties have concluded.»

Fifty five. Article 314 is edited as follows:

«Emancipation takes place:

1st. Upon becoming of age.

2nd. By concession by those who exercise the parental authority.

3rd. By legal concession.»

Fifty six. Article 681 is edited in the following manner:

«The following may not be witnesses in testaments:

First. Minors, except as specified in article 701.

Second. No content.

Third. Anyone who does not understand the language of the testator.

Fourth. Anyone who does not demonstrate the necessary judgement to perform testimonial duties.

Fifth. Any spouse or relative of fourth degree of sanguinity or second of affinity to the authorising notary and who may have a work relationship with said notary.»

Fifty seven. Article 689 is edited in the following manner:

«A holographic will must be presented before a notary for legalisation within five years of the death of the testator. The notary shall legalise the document in accordance with notarial legislation.»

Fifty eight. Article 690 is edited in the following manner:

«Any person who has a holographic will in their possession must submit it to the competent notary within ten days of said individual becoming aware of the death of the testator. Failure to comply with this duty shall mean the person becomes responsible for any damages that may be caused.

Any person who may have an interest in the testament as an heir, legatee, trustee or any other concept, may also submit the will.»

Fifty nine. Article 691 is edited in the following manner:

«Once the holographic will has been submitted and the death of the testator accredited, said will shall be attested, in accordance with notarial legislation.»

Sixty. Article 692 is edited in the following manner:

«Once the will is attested and the identity of the author accredited, said will shall be legalised.»

Sixty one. Article 693 is edited in the following manner:

«Once the notary considers the authenticity of the will accredited, they shall authorise the act of legalisation, in which all proceedings must be recorded and, when relevant, observations declared.

If the will is not attested, due to not having sufficiently proven the identity of the testator, the proceedings shall be archived, without having legalised said will.

Whether or not the holographic will is attested, interested parties in dispute may exercise their rights in any corresponding hearing.»

Sixty two. The second paragraph of article 703 is amended to read the following:

«If the testator dies within the stated term, the will shall also remain ineffective if, within three months of their death, it is not submitted to the competent notary to add to public deeds, whether issued in writing or verbally.»

Sixty three. Article 704 is amended to read the following:

«Any wills submitted without notarial authorisation shall be ineffective if they are not added to public deeds or legalised in the manner prescribed by notarial legislation.»

Sixty four. Article 712 is edited in the following manner:

«1. Any person who has a sealed will in their possession must submit it to the competent notary within ten days of said person becoming aware of the death of the testator.

2. The authorising notary of a sealed will, constituted as a depository by the testator, must communicate, within ten days of the becoming aware of the death of the testator, the existence of the will to the testator's surviving spouse, descendants and ascendants and, in the absence of these, to any fourth degree collateral relatives.

3. In the two previous scenarios, if the identity or whereabouts of these persons are unknown, or their existence is unknown, the notary must use publicity, in accordance with notarial legislation.

Failure to fulfil this duty or that of submitting the will by the person or notary who holds the will shall cause said person or notary to become responsible for any damage caused.»

Sixty five. The first paragraph of article 713 is edited in the following manner:

«Anyone who wilfully fails to submit any sealed will that is within their possession, within the timescale fixed in the previous article, in addition to the responsibility contained therein, shall lose all hereditary rights if they had them, as intestate successor, heir or legatee of the will.»

Sixty six. Article 714 is edited in the following manner:

«When opening and legalising a sealed will, notarial legislation governing the same shall be observed.»

Sixty seven. Article 718 is edited in the following manner:

«Wills prepared in accordance with the two previous articles must be issued as soon as possible to headquarters and from there, to the Ministry of Defence.

If the testator has died, the Ministry shall send the will to the Notaries Society corresponding to the last address of the deceased and, if this is not known, to the Notaries Society in Madrid.

The Notaries society shall send the will to the corresponding notary from the testator's last address. Once the notary has received said will, they must communicate its existence, within ten days, to the heirs and other interested parties to the succession, so that they may appear before them for the purpose of legalising it in accordance with legal requirements.»

Sixty eight. Sections 1, 2 and 3 of article 756 are edited in the following manner:

«1. Whosoever has been convicted by final decision for having made an attempt against life or for a serious offence for having caused injury or exerted habitual physical or psychiatric violence within the family home to the deceased, their spouse, person to whom they are connected by analogous relationship or one of their descendants or ascendants.

2. Whosoever has been convicted by final decision for offences against freedom, moral integrity or sexual freedom and integrity, if the victim is the deceased, their spouse, person to whom they are connected by analogous relationship or one of their descendants or ascendants.

In the same way, any person convicted by final decision for the serious offence of having committed an offence against family rights and duties with respect to the inheritance of the aggrieved party.

Also anyone deprived, by way of final decision, of parental authority or removed from the office of ward or family foster carer for a minor or a person with legally amended capacity, for any prosecutable reason, with respect to the inheritance of the same.

3. Whosoever has accused the deceased of an offence indicated by the law as a serious offence, if they are convicted for false allegations.»

Sixty nine. Article 834 is edited in the following manner:

«Any spouse who, upon their spouse's death is not legally or de facto separated from them, if there are children or descendants involved, shall have the right to usufruct of one third destined for improvement.»

Seventy. Article 835 is edited in the following manner:

«If, between separated spouses there was a mediated reconciliation, duly notified to the Judge who was aware of the separation, or the notary who recorded the public deeds of separation pursuant to article 84 of this Code, the surviving spouse shall retain their rights.»

Seventy one. Article 843 is edited in the following manner:

«Unless there be express confirmation by all the children and descendants, the partition referred to in the two previous articles shall require approval by the clerk of the court or notary.»

Seventy two. Article 899 is edited in the following manner:

«Any trustee who accepts the role is thus obliged to fulfil it; however, they may renounce said role, citing just cause against the criteria to the clerk of the court or the notary.»

Seventy three. Article 905 is edited in the following manner:

«If the testator wishes to increase the legal timescale, they must expressly indicate the length of the extension. If they have not indicated thus, the period shall be understood to have been extended by one year. If, once this extension has transpired, the testator's will has not yet been fulfilled, the clerk of the court or the notary may grant another, for the period deemed necessary, according to the circumstances of the case.»

Seventy four. Article 910 is edited in the following manner:

«The executorship shall cease due to the death, impossibility, resignation or removal of the trustee, and due to the lapse of the time period indicated by the testator, the law or when relevant, the interested parties. Removal must be approved by the Judge.»

Seventy five. Article 945 is edited in the following manner:

«The call referred to in the previous article shall not take place if the spouse is legally or de facto separated.»

Seventy six. Article 956 is edited in the following manner:

«Should there be no persons with the right to inherit pursuant to the preceding sections, the state shall inherit and, once estate payments have been settled, shall invest the remainder in the National Treasury

unless, due to the nature of the goods inherited, the Government Cabinet agrees to fully or partially use them for another application. Two thirds of the value of the estate shall be designated to social interest purposes and added to the tax systems related to these ends by the general state budget.»

Seventy seven. Article 957 is edited in the following manner:

«The state's rights and obligations shall be the same as any other heirs, but the inheritance shall always be accepted with the benefit of inventory, without the necessity of declarations regarding it, pursuant to the points in article 1023.»

Seventy eight. Article 958 is edited in the following manner:

«In order that the state may take possession of the inherited goods and rights, there must be prior administrative declaration of heirship, in which the goods are assessed for lack of legitimate heirs.»

Seventy nine. Article 1005 is edited in the following manner:

«Any interested party who accredits their interest in whether the heir accepts or renounces the inheritance, may approach the notary for them to advise the summoned party that they have a period of thirty natural days to simply accept, accept with the benefit of inventory, or renounce the inheritance. The notary shall also indicate that if they do not declare their intention within the said period, they shall be understood to have simply accepted the inheritance.»

Eighty. Article 1008 is edited in the following manner:

«Renouncement of the inheritance must be done before the notary by way of public instrument.»

Eighty one. Article 1011 is edited in the following manner:

«The declaration of intention to make use of the benefit of inventory must be made before a notary.»

Eighty two. Article 1014 is edited in the following manner:

«Any heir that possesses the inheritance or part thereof and wishes to use the benefit of inventory or the right to deliberate, must communicate the same before the notary and request, within a period of thirty days from knowledge of said inheritance, the creation of a notarial inventory

with summons to any creditors or legatees so that they attend to submit it if necessary.»

Eighty three. Article 1015 is edited in the following manner:

«If the heir does not have the inheritance or part of it in their possession, nor have they performed any task as said heir, the period detailed in the previous article shall be counted from the day after that on which the period that would have been fixed within which to accept or renounce the inheritance, would have expired, pursuant to article 1005, or from the day on which they would have accepted or managed it as an heir.»

Eighty four. Article 1017 is edited in the following manner:

«The inventory shall be started within thirty days of the summons to the creditors and legatees and shall conclude within a further sixty.

If, due to the goods being at long distance or very numerous, or from other just cause, sixty days seems insufficient, the notary may extend this deadline for the period they deem necessary, without exceeding one year.»

Eighty five. Article 1019 is edited in the following manner:

«Any heir who has reserved the right to deliberate, must declare to the notary, within thirty days of the conclusion of the inventory, whether they renounce or accept the inheritance and whether or not they make use of the benefit of inventory.»

If the thirty days pass without said declaration, they shall be understood to have simply accepted the inheritance.»

Eighty six. Article 1020 is edited in the following manner:

«During the creation of the inventory and until the acceptance of the inheritance, at the request of one of the parties, the notary may adopt the necessary provisions for the management and custody of the inherited goods, arranged in accordance with the stipulations of this Code and in notarial legislation.»

Eighty seven. Article 1024 is edited in the following manner:

«The heir shall lose the benefit of inventory:

1st. If they knowingly fail to include in the inventory, any goods, rights or assets from the inheritance.

2nd. If, before completing payment of any debts and legacies, they dispose of any goods from the inheritance without the authorisation of all interested parties, or they do not apply the sales price upon requesting authorisation.

However, they may have securities listed on a secondary market through sale in that market and the remaining goods through sale in public notarial sale, with prior notification to all interested parties, specifying in both cases, the application to be given to the price obtained.»

Eighty eight. Article 1030 is edited in the following manner:

«When the sale of hereditary goods be necessary to pay debts or legacies, this shall proceed in the manner established in the second paragraph of the 2nd number of article 1024 of this Code, unless all heirs, creditors and legatees agree a different solution.»

Eighty nine. The first paragraph of article 1033 is amended to read the following:

«Any inventory expenses or other proceedings that are undertaken as part of the administration of the inheritance, accepted under benefit of inventory and the defence of its rights, shall fall to the same inheritance. Excepting any expenses chargeable to any heir who has been personally convicted of malice or bad faith.

The same shall be understood with respect to costs incurred from making use of the right to deliberate, if the heir renounces the inheritance.»

Ninety. Article 1057 is edited in the following manner:

«The testator may entrust the simple function of partitioning after their death, by act of “inter vivos” or “mortis causa”, to any person who is not one of the joint heirs.

In the event of there being no will or accountant-partitioner assigned to it, or the position is vacant, the clerk of the court or the notary, at the request of the heirs and legatees representing at least 50 percent of the inheritors, and with summons for the remaining interested parties, if their whereabouts are known, may name an executor dative, pursuant to notarial regulations and the regulations of the Law of Civil Procedure on the nomination of qualified experts. The partition being complete, it shall require approval by the clerk of the court or the

notary, unless express confirmation is received from all heirs and legatees.

The stipulations of this article and the previous, shall be observed even though there may be a joint heir subject to parental authority, ward or guardianship; but the accountant-partitioner must, in these cases, inventory the goods in the inheritance, with summons to the legal representatives or guardians of said persons.»

Ninety one. Article 1060 is edited in the following manner:

«When minors or legally incapacitated persons are legally represented in the partition, neither intervention or legal authorisation shall be necessary, but the guardian shall need legal approval of the partition performed. The court-appointed guardian assigned to represent a minor or legally incapacitated person in a partition, must obtain the Judge's approval, if the clerk of the court did not do otherwise at the point of nomination.»

Ninety two. Article 1176 is edited in the following manner:

«If the creditor to whom the offer of payment was made, pursuant to the provisions governing the same, refuses, either expressly or de facto, without reason, to submit the justification document for having done so, or the security cancellation, if one should exist, the debtor shall be free of any liability by the appropriation of the owed item.

The appropriation alone shall produce the same effect when it is enforced, should the creditor be absent from the place in which the payment should be made, or when it is not possible to receive it at the moment in which it is to be made, or when various persons appear to have the right to charge, when the creditor is unknown, or the title attached to the obligation is lost.

In any event, appropriation shall proceed for any situation in which the fulfilment of the obligation is made more onerous for the debtor due to causes for which they are not liable.»

Ninety three. Article 1178 is edited in the following manner:

«Appropriation shall be by the debtor or a third party, ensuring due items are at the disposal of the Court or the notary, pursuant to the terms of the Law on Non-Contentious Proceedings and notarial legislation.»

Ninety four. Article 1180 is edited in the following manner:

«Acceptance of the appropriation by the creditor or the legal declaration that it is well done, shall terminate the obligation and the debtor may request that the obligation and the security, when relevant, be cancelled.

Meanwhile, the debtor may remove the item or appropriate amount, leaving the obligation remaining.»

Ninety five. Article 1377 is edited in the following manner:

«In order to complete acts of disposal for payment of financial goods, the consent of both spouses shall be required.

If one should refuse consent or is unable to give it, the Judge may authorise one or various acts of disposal if it is considered in the family's interest. In exceptional cases the Judge may agree any limitations or precautions they deem necessary.»

Ninety six. Article 1389 is edited in the following manner:

«Any spouse on whom the management of disposal referred to in the two previous articles falls, shall have full faculty to perform said management, unless the Judge, considering it in the family's interest, establishes precautions or limitations.

In any event, in order to fulfil acts of disposal of fixed goods, business premises, precious objects or moveable goods, except preferential subscription rights, they shall need legal authorisation.»

Ninety seven. Article 1392 is edited in the following manner:

«The conjugal partnership shall terminate with full legal rights:

1st. When the marriage is dissolved.

2nd. When it is declared null.

3rd. When legal separation of the spouses is agreed.

4th. When the spouses agree a different financial regime in the manner prescribed by this Code.»

Ninety eight. Article 1442 is edited in the following manner:

«If a spouse is declared insolvent, the provisions of bankruptcy legislation shall apply.»

Second final provision. *Amendment to the Commercial Code.*

Article 40 is edited in the following manner:

«1. Without prejudice to the provisions of other laws obliging submission of annual accounts to auditors by persons who hold the position of account auditor, or the stipulations of articles 32 and 33 of this Code, each business manager shall be obliged to submit to auditors, their company's annual statement or, when relevant, consolidated statement, when so agreed by the clerk of the court or registrar of companies from the district in which the company is registered, if they receive a reasoned request from a person with accredited legitimate interest. Before assessing the application, the clerk of the court or the registrar of companies must request that the applicant forward the necessary funds to pay the auditors' fees.

Only the company may oppose the appointment, providing supporting documentation as to why the same may not proceed, or negating the applicant's legitimacy.

The application to the registrar of companies shall be processed in agreement with the provisions of Companies Register regulations. Appointment of the auditor shall be subject to the regulatory shift established by companies register regulations.

If the request is made through the clerk of the court, the procedures shall comply with the provisions of the non-contentious proceedings legislation.

The resolution passed on whether the audit shall proceed or not proceed shall be open to challenge before the commercial court judge.

2. On the same day in which it is issued, the auditor shall submit the report to the business manager and the applicant and shall present a copy to the individual who was nominated. If the report contains a contested or unfavourable opinion, the clerk of the court or the registrar of companies shall agree that the business manager satisfy the applicant with the expected amounts. If the report contains an opinion with reservations or exceptions, a sentence shall be drafted to determine on whom and in what proportion the cost of the audit should fall. If the report contains a favourable opinion, the cost of the audit shall fall upon the applicant.

3. The clerk of the court or the commercial registrar shall dismiss the application for audit if, before the date of the application, appointment of the auditor is recorded in the companies register for verification of

the accounts of the same financial year or, in the case of businesses and other obliged legal entities, if the legal deadline for appointing an auditor by a competent organisation has not expired.

4. The issue of the audit report shall not impede the exercise of the right to access the accounts for those to whom the Law attributes said right.»

Third final provision. *Amendment to specific articles of Law 1/2000, on Civil Procedure.*

The Law on Civil Procedure is amended as follows:

One. Section 1 of article 8 is edited in the following manner:

«1. When a natural person is involved in the case mentioned in section 2 of the preceding article and there is no person to legally represent or assist said legal person to appear in court, the clerk of the court shall appoint a guardian, via decree, who shall assume the representation and defence until such a representative is appointed, through a procedural court order.»

Two. Section 1 of article 395 is edited in the following manner:

«1. If the defendant accepts the claim before responding, there shall be no imposition of costs unless the court duly reasons the matter and observes bad faith in the defendant.

In any case, it shall be construed that there is bad faith if, before the claim is filed, an irrefutable and justifiable requirement for payment is served on the defendant, or if mediation proceedings have been initiated or an application for reconciliation have been brought against him.»

Three. Section 1 of article 525 is edited in the following manner:

«1. In no case, shall the following be subject to provisional enforcement:

1st. Judgements passed in processes regarding paternity, maternity, kinship, marriage annulment, separation or divorce, marital status and matrimonial capacity, as well as measures relating to the restitution or return of minors in cases of international abduction or honorary rights, excepting sentences regulating any hereditary relationships or obligations relating to the principal purpose of the process.

2nd. The judgements which sentence a party to issue a declaration of will.

3rd. Judgements that declare the annulment or expiration of industrial property rights.»

Four. Article 608 is edited in the following manner:

«Article 608. Sentence to provide alimony benefit.

The provisions of the preceding article shall not apply in the case of enforcement of a judgement that condemns a party to pay alimony, in all the cases in which the obligation to meet these payments arises directly from the Law, including the rulings of the sentences issued in annulment, separation or divorce proceedings concerning alimony owing to the spouse or the children or from the decrees or public deeds legalising the regulating agreement establishing the same. In these cases, as well as in cases involving relevant precautionary measures, the court shall establish the amount that may be attached.»

Five. Article 748 is edited in the following manner:

«The provisions of this present Title shall be applicable in the following processes:

1st. Those concerning the capacity of the individuals and those of declaration of prodigality.

2nd. Those of kinship, paternity and maternity.

3rd. Those of annulment of marriage, separation and divorce and those of modification of measures adopted in them.

4th. Any relating exclusively to the guardianship and custody of minors or to alimony claimed by one parent from the other on behalf of said minors.

5th. Any regarding recognition of civil effectiveness of ecclesiastical judgements or decisions in matrimonial issues.

6th. Any dealing with measures relating to return of minors in cases of international abduction.

7th. Any concerning objections to administrative decisions relating to the protection of minors.

8th. Any concerning the necessity of consent in adoption.»

Six. The first section of article 749 is edited in the following manner:

«1. In proceedings regarding the capacity of persons, annulment of marriage, international kidnapping of minors and the determination or rebuttal of kinship, the public prosecution service shall always be involved, whether or not they instigated said proceedings or, according to the law, must assume the defence of any of the parties. The public prosecution service shall ensure, throughout the whole process, the safeguarding of the best interests of the person affected.»

Seven. The second paragraph of article 758 is edited in the following manner:

«Should they not do so, they shall be defended by the Public Prosecution Service, as long as it did not initiate the proceedings. Otherwise, the clerk of the court shall appoint a guardian, unless such guardian has already been appointed.»

Eight. Sections 1 and 2 of article 769 are edited in the following manner:

«1. Except where expressly set forth otherwise, the competent court to deal with the proceedings referred to in this chapter shall be the Court of First Instance of the place where the matrimonial domicile is established. Should the spouses reside in different court districts, the competent court shall be either that of the latest matrimonial address or the defendant's residence, at the claimant's choice.

A claim may be brought against those lacking a fixed domicile or residence either in the place they are to be found or in their last place of residence at the claimant's choice. Should it prove to be impossible to determine competence in this manner, the court of the claimant's place of residence shall hold competence.

2. In the event of the uncontested separation or divorce proceedings referred to in Article 777, the court of the last common address or of either of the claimants shall hold competence.»

Nine. Section 4 is amended and article 10 is added to article 777, in the following manner:

«4. Once the application has been ratified by both spouses and should the documents filed be insufficient, the competent Judge or clerk of the court shall grant the petitioners a time limit of ten days in which to complete them. Any evidence the spouses may have proposed, if relevant, shall be taken during this period, along with any other evidence the court may deem necessary to prove the existence of the

circumstances required by the Civil Code for each case and to appreciate the appropriateness of approving the settlement agreement proposal.»

«**10.** If the jurisdiction falls to the clerk of the court due to the lack of non-emancipated minors, or legally incapacitated persons who depend on their parents, immediately after the spouses' ratification before the clerk of the court, a decree shall be pronounced on the regulatory agreement.

The decree legalising the proposal for the regulatory agreement, shall declare the separation or divorce of the spouses.

If the court considers, in its judgement, that some of the terms of the agreement may be harmful or gravely prejudicial to one of the spouses or one of the children of age or emancipated minors affected, it shall advise the parties and close the proceedings. In this case, the spouses may only appear before the Judge for the approval of the proposal for the regulatory agreement.

The decree shall not be open to challenge.

Amendment of the regulatory agreement legalised by the clerk of the court shall be conducted in accordance with the stipulations of this article when the necessary requirements for the same exist.»

Ten. Chapter IV bis is added in Title I of Book IV, integrated with new articles 778 bis to 778 quarter, with the following title:

«CHAPTER IV BIS

MEASURES RELATING TO THE RESTITUTION OR RETURN OF MINORS IN CASES OF INTERNATIONAL ABDUCTION»

Eleven. Article 778 bis is added, with the following wording:

«Article 778 bis. Scope of application. General regulations.

1. In situations where, if an international agreement or European Union provisions are in effect, the restitution of a minor or their return to their place of origin is attempted, due to their having been illegally relocated or retained and they are in Spain, the proceedings shall follow the provisions stipulated in this Chapter. This shall not apply for any situations in which the minor is from a state outside the European Union or from an area where there is no international agreement.

2. In such proceedings, jurisdiction shall fall to the Magistrate from the capital of the province, from Ceuta or Melilla, with jurisdiction covering

the right of the family, in whose district the minor has been found to be illegally relocated or retained, if one exists. In the absence of the same, this shall fall to whichever Magistrates' court this has been listed on the rota system. The court shall examine its competence on an ex officio basis.

3. The person, institution or organisation responsible for the minor's custody, stay or visiting regime, or relationship or communication regime may promote the proceedings to the Spanish central authority responsible for the compliance with the obligations imposed by the corresponding agreement, when relevant, or, on behalf of the same, the person designated by said authority.

4. The parties must proceed with the assistance of a lawyer and under the representation of a court lawyer. Intervention by the state appointed solicitor, when appearing before the Spanish central authority, shall cease the moment when the applicant for the return or restitution appears in the proceedings with their own lawyer and court lawyer.

5. The procedure shall be of an urgent and preferential nature. In both instances, it must be completed within the total fixed deadline of six weeks from the date of presentation of the application for the return or restitution of the minor, unless exceptional circumstances exist that make this impossible.

6. In no circumstance shall the suspension of civil proceedings be ordered due to the existence of a preliminary judgement arising from criminal proceedings regarding the extraction of minors.

7. In these types of processes and with the aim of facilitating direct legal communication between different countries' courts, if possible and if the Judge considers it necessary, recourse to the assistance of the Spanish central authorities implicated in the process, the existing international judicial co-operation network, members of the International Hague Network of Judges and International Network of Liaison Judges shall be made available.

8. The Judge may agree, as part of the process, ex officio, at the request of the person who requested the procedure or the public prosecution service, opportune precautionary measures deemed necessary for the safeguarding of the minor, pursuant to article 773, as well as those set forth in article 158 of the Civil Code.

In the same way, they may agree that during the course of the process, custody or visiting rights, or relationship or communication rights with

the claimant be established, including in a supervised capacity, if it be in the minor's interests.»

Twelve. Article 778 ter is added, with the following wording:

«Article 778 ter. Procedure.

1. The procedure shall be started by way of a claim in which the restitution or return to place of origin of the minor is requested, and shall include all the information required by the applicable international regulation and, in all cases, the relationship between the identity of the claimant, the minor and the person considered to have removed or retained the minor, as well as the motives on which the claim for their restitution or return is based. In the same way, it must include all available information regarding the localisation of the minor and the identity of the person with whom they are reportedly to be found.

The claim must be accompanied by any documentation required, when relevant, by the corresponding international agreement or regulation or any other regulation on which the applicant bases their claim.

2. The clerk of the court shall rule on the admissibility of the claim within a deadline of 24 hours and should it be ruled inadmissible, the Judge shall be informed, in order that they may proceed within said period.

In the same judgement in which the claim is admitted, the clerk of the court shall require the person charged with the criminal removal or retention of the minor to appear with the minor, on the date determined by said court, which may not be more than three days from the date of the claim, and declare if they agree to the child's restitution or return or oppose it, in which case alleging one of the causes established in the corresponding applicable international agreements or regulations.

The requirement shall be fulfilled with the legal warnings and submission of the required text from the corresponding applicable international agreement or regulation.

3. If the minor cannot be located in the place indicated on the claim and if, after the fulfilment of the corresponding investigation by the clerk of the court regarding their address or place of residence, these remain unconfirmed, the proceedings shall be temporarily archived until they are located.

If the minor is found in another district, the clerk of the court, after prior audience with the public prosecution service and parties, shall advise the judge, within a period of one day, to resolve proceedings the

following day via judicial order, setting out, when relevant, the court actions over which they have jurisdiction and requesting the parties to appear before the court within the next three days.

4. On the day, if the required party attends and agrees to the restitution of the minor or their return to their place of origin, as relevant, the clerk of the court shall lift the order and the Judge shall issue judgement on the same day, agreeing the conclusion of the process and the restitution or return of the minor, passing sentence with regards to costs, including travel costs and procedural costs.

The defendant may appear at any time before the completion of the procedure and agree to hand over the minor or return them to their place of origin, in accordance with the stipulations of this section.

5. If the defendant does not appear in court, or if they appear without plea, or they do not oppose or proceed, in this instance, with the handover or return of the minor, the clerk of the court may, on the same day, sentence them by default and shall continue the proceedings without them, summoning only the claimant and the public prosecution service to a hearing before the Judge, which shall take place within a period of no more than five days hence, to be held in accordance with the stipulations of the sixth section of this article. However, the defendant must be notified of said judgement, after which there shall be no other, except that of the final decision concluding the process.

The Judge may impose any precautionary measures deemed necessary in relation to the minor, should they not already previously have been adopted, pursuant to article 773.

6. If in the first hearing the required party presents opposition to the restitution or return of the minor, under the remit of causes established in the corresponding applicable international agreement or regulation, which must be presented in writing, the clerk of the court, on the same day, shall notify the opposition and shall summon all the interested parties and the public prosecution service to a hearing that shall be held within the non-extendable deadline of five days thence.

7. The hearing shall not be postponed due to the non-appearance of the claimant. If the defendant who opposed does not appear, the Judge shall deem that they have withdrawn their opposition and the hearing shall continue.

During said hearing, the appearing parties shall be heard, so that they may present the case that they deem appropriate, to the person who requested the restitution or return, the public prosecution service and

the defending party, including if they are appearing in this procedure for the first time.

When relevant, useful, pertinent tests shall be performed, either proposed by the parties or the public prosecution service, or agreed ex officio by the Judge, regarding the proceedings relevant to the decision on the unlawfulness or not of the removal or retention and the measures to adopt, within a non-extendable deadline of six days. The Judge may also request, ex officio, or at the request of the parties or the public prosecution service, any reports they deem relevant, completion of which shall be considered urgent and preferential to any other process.

8. Before adopting any decision relating to the admissibility or otherwise of the restitution of the minor or their return to their place of origin, the Judge, at any moment during the process, and in the presence of the public prosecution service, shall separately hear the minor, unless audience with the same is not considered convenient when taking into account their age or the degree of maturity of the same, which shall be recorded in a reasoned judgement.

In the examination of the minor, it shall be guaranteed that they may be heard under conditions in which to safeguard their interests, without the interference of other persons and, in exceptional cases, requesting the assistance of specialists when necessary. This proceeding may be performed via video conference or other similar system.

9. Once the trial has taken place and, when relevant, all pertinent tests performed, within three days following its conclusion, the Judge shall pass sentence only regarding whether the removal or retention is unlawful and shall agree to proceed or not with the restitution of the minor to the person, institution, or organisation to whom their stay or custody is attributed, or their return to their place of origin, in order that the applicant may exercise their stay, communication or relationship regime with the minor, bearing in mind the superior interest of said minor and the terms of the corresponding agreement or provisions of the European Union on the matter, as relevant. The judgement agreeing the restitution or return of the minor, shall establish in detail the form and deadline for completion, adopting any measures necessary to avoid a new unlawful removal or retention of the minor after notification regarding the sentence.

10. If the restitution or return of the minor is agreed, the sentence shall establish that the person who removed or retained the minor be liable for procedural costs, including any incurred by the applicant, any travel

costs and any arising from the restitution or return of the minor to the state in which they habitually resided prior to their removal.

In all other cases, procedural costs shall be declared ex officio.

11. There shall only be recourse to appeal with suspensive effect against the judgement, which must be resolved within the non-extendable deadline of twenty days.

During the appeal, the following special measures shall be followed:

a) A deadline of three days shall be imposed, counted from the day after sentencing. The judicial body must agree their admission or otherwise, within the 24 hours following submission.

b) Once the recourse for appeal has been admitted, the other parties shall have three days in which to present, in writing, their opposition to the recourse or, when relevant, their legal challenge. In the latter instance, the main appellant shall also have a deadline of three days in which to present whatever they have that may be relevant.

c) After which, the clerk of the court shall, on the same day, order the referral of the orders back to the court competent to resolve the appeal, before which the two parties must appear within 24 hours.

d) Once the court has received the orders, it shall agree proceedings on their admission within a deadline of 24 hours. If any test must be performed, or if a hearing is agreed, the clerk of the court shall advise a date for within the following three days.

e) The sentence must be issued within the three days following the conclusion of the hearing or, in the absence of said hearing, from the day following that on which the orders were received in the court competent to hear the appeal.

12. At any point in the process, both parties may request a stay of the proceedings, pursuant to the provisions set forth in Article 19.4, in order to submit to mediation. The Judge may also, at any point, ex officio or at the request of any party, propose a solution of mediation if, in light of the circumstances, it is deemed that they may reach an agreement, without incurring an unjustified delay in the process. In such cases, the clerk of the court shall agree suspension for the time necessary to complete said mediation. The public entity who is responsible for the protection of the minor may intervene as mediator

if so requested ex officio or by the parties or the public prosecution service.

The duration of the mediation procedure shall be as brief as possible and its proceedings shall be concentrated into the minimum number of sessions, without at any time allowing the suspension of the process to exceed the legal period set forth in this Chapter.

The legal proceedings shall resume if requested by any party or, in the case of reaching an agreement in mediation, which shall be approved by the Judge, taking into account the current regulations and the superior interest of the child.

13. While executing the sentence by which the restitution of the minor or their return to the state of their origin was agreed, the central authority shall provide the necessary assistance to the court to guarantee that this is performed without risk, in each case adopting specific administrative measures.

If the parent who has been sentenced to return the minor should oppose, impede or hinder fulfilment of this sentence, the Judge must adopt the necessary measures to execute said sentence immediately, having at their disposal the assistance of the social services and the security forces.»

Thirteen. Article 778 quarter is added, with the following wording:

«Article 778 quarter. Judgement of unlawful on an act of international removal or retention.

When a minor with habitual residence in Spain is the object of international removal or retention, in accordance with that set forth in the corresponding applicable international agreement or regulation, any interested person outside the process initiated to request their international restitution, may address the competent judicial authority in Spain as to the substance of the matter, with the intention of obtaining a judgement that the specific removal or retention was unlawful, for which they may use the procedural channels available in Title I of Book IV on the adoption of definite or provisional measures in Spain, including the measures set forth in article 158.

The Spanish authority competent to issue a judgement or certification from article 15 of the Hague Convention of 25 October 1980 on the civil aspects of the international kidnapping of minors, who accredits whether the removal or retention of the minor was unlawful in the sense set forth in article 3 of the Convention shall, whenever possible,

be the highest judicial authority known in Spain for any process regarding parental authority affecting the minor. In the absence of the same, the Magistrates' court from the last Spanish domicile of the minor shall have jurisdiction. The Spanish central authority shall do everything possible to assist the applicant in obtaining a decision or certification of this nature.»

Fourteen. Section 1 of article 782 is edited in the following manner:

«1. Any joint heir or legatee with a proportional part may legally claim the division of the inheritance on condition that this must not be carried out by a commissioner or accountant-partitioner designated by the testator, due to an agreement made by the joint heirs or by the clerk of the court or the notary.»

Fifteen. Article 790 is edited in the following manner:

«1. On condition that the court is notified of the death of a person and there is no record of a will, nor of forebears, descendants or a spouse of the deceased, nor a person who is in a de facto similar situation, nor are there relatives within the fourth degree, the court shall ex officio adopt the measures essential for the burial of the deceased if this is necessary and the measures for the security of the deceased's goods, books, papers, correspondence and effects susceptible to removal or concealment.

Procedure shall be the same when the persons referred to in the preceding paragraph are absent or when any of these are minors or legally incapacitated and do not have legal representatives.

2. In the cases to which this article refers, after the relatives have appeared or a legal representative has been appointed to the minors or persons of legally amended capacity, they shall be given the goods and effects belonging to the deceased and legal intervention shall cease, excepting the stipulations of the following article, where attendance before the notary is necessary in order to proceed with issuing declaration of heirs.»

Sixteen. Section 2 is amended and a new section 3 is added to article 791:

«2. If, in fact, it turns out that the person died intestate and with no relatives with a right to succession in law, by mandate, the court shall order that procedure be as follows:

1st. To take possession of the books, papers and correspondence of the deceased person.

2nd. To make an inventory of and deposit the goods, stipulating what is to be done as regards their administration, in accordance with the provisions herein. The court may appoint a person, at the expense of the state, to carry out and guarantee the inventory and its deposit.

In the same sentence, it shall order, ex officio, communication with the corresponding delegation from Economy and Finance, in case there be a declaration of intestate successor in the state's favour, with transfer of the proceedings realised and documentation collected in accordance with section 1.

3. From the point at which the general state administration or an autonomous region's administration communicates to the court that they have initiated the procedure for a declaration of intestate successor, the court shall agree that they are responsible for the administration of the goods. In this case, the public administration body shall not be required to provide surety and shall complete any expert reports deemed necessary, using their own technical services.

The administration shall communicate to the court the decision that concludes the proceedings. If the aforementioned decision concludes that the declaration of intestate successor in favour of the administration may not proceed, said administration may not continue to be responsible for the estate and shall request that the court appoint a new legal administrator within a period of one month from said communication. Once the month has transpired, the administration shall, in all cases, cease to be responsible as administrator.

When aforementioned decision declares the administration intestate successor, the judicial body who presided over the intervention of the estate shall, within one month, adopt the provisions necessary for the handover of the goods and rights that form the inheritance.»

Seventeen. Section 1 of article 792 is edited in the following manner:

«1. The proceedings referred to in section 2 of the preceding article may be agreed to at the request of a party in the following cases:

1st. By the spouse or any of the relatives who believe they have a right to legitimate succession, on condition that they accredit having sought the declaration of intestate successors before a

notary, or the application for the supervision of the estate of a deceased person is formulated at the same time as the notarial declaration of heirs is sought.

2nd. By any co-heir or legatee with an equiproportional part, when requesting the judicial division of the inheritance unless the supervision has been expressly forbidden by a provision in the shall.

3rd. By the public administration body who initiated the proceedings for declaration of their status as intestate successor.»

Eighteen. Section 1 of article 802 is edited in the following manner:

«1. The administrator shall deposit without delay, the amounts collected while holding the post at the disposal of the court, while retaining only the amounts required to attend to the expenses of judicial or notarial proceedings, payment of fees and other ordinary expenses.»

Nineteen. The twenty second final provision is edited in the following manner:

«Twenty second final provision. Measures to facilitate the application in Spain of Council Regulation (EC) no. 2201/2003, of 27 November 2003, regarding the jurisdiction, recognition and enforcement of judicial decisions regarding matrimonial matters and matters of parental authority.

1. The certification concerning judicial decisions regarding matrimonial matters and matters of parental authority set forth in article 39 of Regulation (EC) No. 2201/2003, shall be issued by the clerk of the court, separately and through a procedural court order, by completing the corresponding form in Annexes I and II of the Regulation cited.

2. The judicial certification concerning the judicial decisions on visiting rights set forth in section 1 of article 41 of Regulation (EC) No. 2201/2003, shall be issued by the Judge, separately and through a procedural court order, by completing the form included in Annex III of said Regulation.

3. The judicial certification concerning judicial decisions on the restitution of minors set forth in section 1 of article 42 of Regulation (EC) No. 2201/2003, shall be issued by the Judge, separately and through a procedural court order, by completing the form included in Annex IV of the Regulation cited.

4. The procedure for the rectification of errors in judicial certification, stipulated in article 43.1 of Regulation (EC) No. 2001/2003, shall be resolved as set forth in the first three sections of article 267 of Organic Law 6/1985, of July 1, on Judicial Power. There shall be no recourse to any appeal against the decision on the clarification or rectification of the judicial certification referred to in the previous two sections.

5. Refusal to issue the certification referred to in sections 1, 2 and 3 of this article shall be adopted separately and by way of decree in the case of section 1 and by court order in the case of sections 2 and 3 and may be challenged by direct appeal for revision in the case of section 1 and by appeal for reversal in the case of sections 2 and 3.

6. Submission of that referred to in article 11.6 of Regulation (EC) no. 2201/2003, shall include a copy of the judicial decision of non-return, pursuant to article 13 of the Hague Convention of 25 October 1980 and a copy of the original proceedings of the hearing in support for the recording and reproduction of sound and image, as well as any documentation the court deems relevant to attach in each case, as accrediting the fulfilment of the obligations of articles 10 and 11 of the Regulation.

7. The claim referred to in article 11.7 of Regulation (EC) no. 2201/2003, shall be substantiated pursuant to the proceedings set forth in the current Law on Civil Procedure, for the processes that exclusively deal with the custody and stay of minors, although legal jurisdiction to hear the case shall be determined pursuant to that set forth for the process regulating the measures on the restitution of minors in alleged cases of international abduction.»

Fourth final provision. *Amendment to Law 20/2011, of 21 July, on Register Offices.*

One. Sections 1, 2, 5, 6, 7, 8, 9, 10 and 12 of article 58 are edited in the following manner:

«1. Civil marriage shall be performed by the justice of the peace, mayor or designated councillor, clerk of the court, notary or consular or diplomatic official acting as registrar for the register office.»

2. Celebration of the marriage shall require prior issue or instruction of a license or proceedings at the request of the couple to be married, to accredit the fulfilment of the requirements for capacity and the non-existence of impediments or the exemption thereof, or any other obstacle, in accordance with the provisions of the Civil Code. Issue of

the proceedings shall fall to the notary in the district of one of the aforementioned couple. Instruction of the proceedings shall fall to the clerk of the court or register office registrar from the district of one of the couple to be married.

5. The clerk of the court, notary or registrar shall hear both spouses in private and separately, in order to ascertain their capacity and the non-existence of any other impediment. Additionally, they may request any relevant reports and perform any relevant legal measures, whether or not these are proposed by the applicants, in order to accredit the status, capacity and residence of the couple to be married, or any other necessary ends to assess the validity of their consent and the veracity of their marriage. If either of the couple is affected by mental, intellectual or sensorial deficiencies, an expert medical opinion must be issued regarding their ability to give consent.

Once all these acts have been completed, they shall be recorded in the records of proceedings, filed together with the documents prior to the registration of the marriage.

If one year passes from publication of the announcements or the substitution legal measures without the marriage having been contracted, said marriage may not take place without new publication or proceedings.

6. Once the previous legal measures have been completed, the clerk of the court, notary or registrar who presided, shall finalise the proceedings or issue a decision, noting the eligibility or lack thereof of the couple with regard to the requirements necessary for marriage, as well as the decision on the matrimonial financial regime applicable and, when relevant, the regional citizenship of the couple, submitting copies of each. The act or decision must be reasoned and clearly express, when relevant, any lack of capacity or impediment that exists.

7. If the hearing by the clerk of the court, notary or registrar was unfavourable, the record or proceedings shall be concluded and the interested parties may approach the Department of Registers and Notaries in order to use the recourse to appeal set forth in this Law.

8. If the result of the proceedings by the clerk of the court was favourable, the marriage may be performed before the aforementioned, or another clerk, a justice of the peace, mayor or designated councillor, according to the wishes of the couple. If it has been processed by the registrar, the marriage must be performed by the justice of the peace, mayor or designated councillor nominated by the couple. Finally, if a notary issued the marriage licence, the couple may choose to grant

consent to the same notary who processed the prior licence or another, a justice of the peace, mayor, or designated councillor. The granting of consent must be performed in the manner set forth in the Civil Code.

Marriage performed before a justice of the peace, mayor or designated councillor, or clerk of the court shall be recorded as an official record; a marriage which takes before a notary shall be recorded in a public deed. In both cases, it must be signed by both bride and groom and two witnesses, together the official before whom it takes place.

Once the certificate has been issued or the public deed has been authorised, a copy proving that the marriage has taken place shall be given to both bride and groom and a certified copy, or authorised electronic copy, of the document shall be sent by the authorising official that same day, by telematic means, to the register office for registration, after approval by the register office official.

9. Marriages performed outside Spain shall fall under the jurisdiction of the consular or diplomatic official responsible for the register office abroad. If one or both of the spouses resides abroad, the issue of prior proceedings may correspond to the consular or diplomatic official responsible for the register office in the district in which they reside. Marriage issued this way may be performed before the same official or another, or before a justice of the peace, mayor or designated councillor, according to the wishes of the couple.

10. If the marriage was performed without having passed first through the prior license or proceedings, where said proceedings were necessary, the clerk of the court, notary or diplomatic or consular official responsible for the register office who performed it, before completing the proceedings necessary for registration, must first verify whether the legal requirements for validation are fulfilled, by way of processing the license or proceedings to which this article refers.

If the marriage was performed before a person or authority other than those indicated in the previous paragraph, the record of said marriage shall be issued to the registrar competent in the district in which it was performed, in order for said registrar to proceed with the verification process to take place through the relevant proceedings. Once verification has taken place, the registrar shall proceed to register the event.

12. If the couple have registered their intent to contract marriage abroad, in accordance with the manner established by the law in the place of the celebration, or in a religious manner, and the submission of a certificate of matrimonial capacity is required, this shall be issued

by the clerk of the court, notary, registrar or consular or diplomatic official from the district in which either of the couple resides, after prior investigatory proceedings or record that contains the accrediting decision regarding the matrimonial capacity of the couple.»

Two. Section 1 of article 58 bis is edited in the following manner:

«1. In order to perform marriage in the religious manner set forth in the Agreement between the Spanish State and the Holy See on Legal Affairs and in the Co-operation Agreements between the state and religious denominations, the stipulations of the aforementioned agreements shall apply.

2. In the event of marriages performed in the religious manner set forth by churches, denominations, religious communities or federations registered in the Religious Entities Register that have obtained recognition as deeply rooted in Spain, these shall require the issue of prior certificate or record of matrimonial capacity, in accordance with the previous article. Once this procedure has been followed, the clerk of the court, notary, registrar, or register office diplomatic or consular official who presided, shall issue two copies of the certificate or decision, which shall include, when relevant, accrediting certification of the couples' judgement of matrimonial capacity, which said couple must submit to the minister of worship performing the ceremony.

Consent must be submitted to a minister of worship and two witnesses of age. In these cases, the permission must be submitted before six months have transpired from the date of the certificate or decision containing the judgement of matrimonial capacity. For this purpose, a minister of worship shall be considered an individual, of a stable character, dedicated to the functions of religious assistance or worship and who is accredited as fulfilling these requirements through certification issued by the church, denomination or religious community that has obtained recognised deeply rooted status in Spain, in conformance with the federation who, when relevant, requested said recognition.

Once the marriage has taken place, the official shall accredit the same, by certification, following the necessary requirements for registration and including the details of the identity of the witnesses and the circumstances of the prior proceedings or certificate, which must include the name and surnames of the clerk of the court, notary, registrar, or diplomatic or consular official who issued the certificate, and the date and name of the protocol used, when relevant.. The certificate shall be sent by electronic means, in accordance with the

regulations, together with certification to prove the status of the minister of religion, within five days, to the relevant register office official for registration. In the same way, two copies of the prior certificate or decision of express legal matrimonial capacity for the celebration of marriage shall be submitted; one to the spouses and one to be preserved as record of the celebration in the files belonging to the official or religious entity represented by minister of worship.»

Three. Article 59 is amended as follows:

«Article 59. Registering the marriage.

1. Marriages whose requirements have been fulfilled and which have been celebrated according the procedure set forth in article 58, shall be recorded in the individual spouses' registers.
2. Marriages celebrated before a foreign authority shall be entered into the Spanish register office by way of registration of the corresponding certificate, assuming said certificate complies sufficiently with the stipulations of this current Law.
3. Religious marriages celebrated in Europe shall be entered into the register office by way of certificate issued by the minister of worship, in accordance with the stipulations of article 63 of the Civil Code.
4. Once registration has taken place, the registrar shall ensure that the certificate of registration of the marriage is available to the spouses.
5. The registration validates the marriage and the date and time on which it was contracted and produces full recognition of the civil effects of the same regarding bona fide third parties.»

Four. Article 60 is amended:

«Article 60. Registering the matrimonial financial regime.

1. Together with the certificate of marriage, the legal matrimonial financial regime or pact that governs the marriage shall be registered, or the pacts, judicial decisions or other proceedings that may affect the same.
2. When settlement deeds are not submitted, the matrimonial regime that shall be registered is the default regime according to the applicable legislation. In order to register a specific legal financial regime to a marriage already registered, when one was not previously registered and there are no supporting deeds of settlement, it shall be necessary to issue an affidavit.

Once the deeds of matrimonial settlement have been granted before the notary, said notary must issue, on the same day, an authorised electronic copy of the public deed to the corresponding registrar, for it to be recorded in the marriage registration. If the marriage has not been performed on the date of receipt of the deed of matrimonial settlement, the registrar shall proceed to register it in the individual record for each spouse.

3. In registrations in any other register where there are settlements and other proceedings affecting the matrimonial financial regime, the information regarding their registration shall be recorded in the register office.

4. Without prejudice to the stipulations of article 1333 of the Civil Code, under no circumstances shall a bona fide third party become adversely affected, except from the date of registration of the matrimonial financial regime or amendment to the same.»

Five. Article 61 is edited in the following manner:

«Article 61. Registering separation, annulment and divorce.

The clerk of the court who issued the final judicial decision of separation, annulment or divorce must submit, on the same day or the next working day, and by electronic means, testimony of the same to the general register office, which shall immediately create the corresponding registration. Judicial decisions regarding annulment, separation and divorce may be registered once they become final.

The notary who authorised the public deed formalising a regulatory agreement of separation or divorce shall be under the same obligation.

Any judicial decisions or public deeds that amend those initially adopted or agreed, must also be registered in the register office.

Decisions regarding dissolution of canonical marriage issued by a recognised ecclesiastic authority, shall be registered if they comply with the requirements set forth in the legal system.»

Six. Article 67. Special circumstances when registering a death.

«**1.** When the corpse has disappeared or has been buried before registration, a statement shall be required of the clerk of the court, declaring the death, or a judicial authority issued order in which the death is legally accredited.»

Seven. Section 1 of article 74 is edited in the following manner:

«1. The absent party's representative and the court-appointed guardian shall have access to the individual register, in the event set forth in article 299 bis of the Civil Code.»

Eight. A new section 3 is added to article 78:

«3. In the registrations of declaration of absence and death, the stipulations set forth in article 198 of the Civil Code shall be followed.»

Nine. Section 2 of the second final provision is edited as follows:

«2. Any references found in any regulation to the Judge, mayor or official who performs their functions to authorise a civil marriage, must be understood to refer to the clerk of the court, notary, register office registrar or diplomatic or consular official of the register office in order to accredit fulfilment of the requirements for capacity and the non-existence of impediments or the exemption thereof; and to the justice of the peace, mayor or designated councillor, clerk of the court, notary or consular or diplomatic official acting as registrar for the register office for the celebration before them of a civil marriage.»

Ten. The fifth final provision of the Law of Register Offices is edited as follows:

«Fifth final provision. Municipal taxes.

Section 5 is added to article 20 of the consolidated text of the Law regulating Local Tax Authorities, approved by Royal Legislative Decree 2/2004, of 5 March, in the following manner:

5. Councils may establish a tax for the celebration of civil marriage.»

Eleven. A fifth bis final provision is added, with the following wording:

«Fifth bis final provision. Notarial fees.

The government shall approve taxes corresponding to the intervention of Notaries in the processing of prior matrimonial proceedings and in the celebration of civil marriages with the authorisation of the corresponding public deeds.»

Twelve. The tenth final provision is edited in the following manner:

«Tenth final provision. Entry into force.

The current Law shall be enforced from 30 June 2017, except for the seventh and eighth additional provisions and the third and sixth final provisions, which shall be enforced from the day following their publication in the “Official National Gazette.»

«Until this current Law is enforced, the government, through the Ministry of Justice, shall adopt the necessary measures and regulatory changes that affect the organisation and running of register offices, within the Justice modernisation process.»

Fifth final provision. *Amendment to Law 24/1992, of 10 November, approving the Co-operation Agreement between the State and the Federation of Evangelical Religious Entities of Spain.*

Sections 2 and 5 of article 7 are edited in the following manner:

«2. Persons who wish to contract marriage in the manner set forth in the previous paragraph shall issue prior record or certificate before the clerk of the court, notary, register office registrar or diplomatic or consular official of the register office, in accordance with the Law of Register Offices.»

«5. Once the marriage has taken place, the minister of worship shall accredit the same, by certification, following the necessary requirements for registration and including the details of the identity of the witnesses and the circumstances of the prior licence or certificate, which must include the name and surnames of the clerk of the court, notary, registrar, or diplomatic or consular official who issued the certificate, and the date and name of the protocol used when relevant.. The certificate shall be sent by electronic means, in accordance with the regulations, together with certification to prove the status of the minister of religion, within five days, to the relevant register office official for registration. In the same way, two copies of the certificate or judgement for the celebration of marriage shall be submitted; one to the spouses and one to be preserved as record of the celebration in the files belonging to the official or religious entity represented by minister of worship.»

Sixth final provision. *Amendment to Law 25/1992, of 10 November, approving the Co-operation Agreement between the State and the Federation of Israelite Communities of Spain.*

One. The Title of this law is amended so that it becomes «Law 25/1992, of 10 November, approving the Co-operation Agreement between the State and the Federation of Jewish Communities of Spain.»

Two. Sections 2 and 5 of article 7 are edited in the following manner:

«**2.** Persons who wish to contract marriage in the manner set forth in the previous paragraph shall issue prior record or certificate before the clerk of the court, notary, register office registrar or diplomatic or consular official of the register office, in accordance with the Law of Register Offices.»

«**5.** Once the marriage has taken place, the minister of worship shall accredit the same, by certification, following the necessary requirements for registration and including the details of the identity of the witnesses and the circumstances of the prior proceedings, which must include the name and surnames of the clerk of the court, notary, registrar, or diplomatic or consular official who issued the certificate, and the date and name of the protocol used when relevant.. The certificate shall be sent by electronic means, in accordance with the regulations, together with certification to prove the status of the minister of religion, within five days, to the relevant register office official for registration. In the same way, two copies of the prior certificate or judgement of explicit legal matrimonial capacity for the celebration of marriage shall be submitted; one to the spouses and one to be preserved as record of the celebration in the files belonging to the official or religious entity represented by minister of worship.»

Three. A new additional fourth final provision is added, with the following wording:

«Fourth Additional Provision. Naming the Federation.

By agreement of the parties, the name Federation of Israelite Communities of Spain is hereby substituted by that of Federation of Jewish Communities of Spain, which shall be used henceforth.

References made to the Federation of Israelite Communities of Spain in this Co-operation Agreement between the State and the Federation of Israelite Communities of Spain, as well as any that appear in other

regulations must be understood to refer to the Federation of Jewish Communities of Spain.»

Seventh final provision. *Amendment to Law 26/1992, of 10 November, approving the Co-operation Agreement between the State and the Islamic Commission of Spain.*

Sections 2 and 3 of article 7 are edited in the following manner:

«**2.** Persons who wish to contract marriage in the manner set forth in the previous point must first accredit their matrimonial capacity, by way of copy of the prior license or certificate issued by the clerk of the court, notary, register office registrar or diplomatic or consular official of the register office, in accordance with the Law of Register Offices and which must contain, when relevant, accrediting judgement of said matrimonial capacity. Registration cannot take place if the marriage took place more than six months from the date of aforementioned proceedings or from the date of the corresponding decision.

3. Once the marriage has taken place, the representative from the Islamic Community in which it was held, shall accredit the same, by certification, following the necessary requirements for registration and including the details of the identity of the witnesses and the circumstances of the prior proceedings, which must include the name and surnames of the clerk of the court, notary, registrar, or diplomatic or consular official who issued the certificate, and the date and name of the protocol used when relevant. The certificate shall be issued by electronic means, in the format determined by regulations, together with certification accrediting the Islamic community representative's competency to perform marriages, pursuant to the stipulations of section 1 of article 3, within five days, to the competent registrar at the register office for registration. Two copies of the prior statement or certificate of express legal capacity to perform marriage shall be provided, with one being given to the spouses and the other to be kept in the Community archives as a record of the act.»

Eighth final provision. *Amendment to Law 33/2003, of 3 November, on Public Administration Assets.*

One. Section 6 of article 20 is edited in the following manner:

«**6.** Legitimate succession of the general state administration and autonomous communities shall be governed by this current Law, the

Civil Code and its complementary regulations, or the regulations of any applicable special or provincial laws.

When, due to the lack of other legitimate heirs under the stipulations of common civil law or provincial law, the general state administration or an autonomous community is named, it shall fall to the administration named in each case, to effect, as part of the administrative proceedings, their declaration of intestate successor, once the death of the person whose succession is being dealt with has been duly verified, and proceed to open intestate succession and verify the absence of other legitimate heirs.»

Two. A new article 20 bis is added:

«Article 20 bis. Procedure for declaring the state administration as intestate successor.

1. The procedure for declaring the administration as intestate successor shall be initiated ex officio, by agreement with the competent authority, adopted on its own initiative or by superior order, reasoned request or claim by other authorities, or due to the communications referred to in article 791.2 of Law 1/2000, of 7 January, on Civil Procedure and article 55.4 of the Law of 28 May on Notaries.

In the event that the general state administration is named, the competent body to agree the initiation shall be the General Directorate for State Assets.

2. Proceedings shall be as instructed by the Delegation of Economy and Finance corresponding to the place of the last known address of the deceased within Spanish territory. If they never had an address in Spain, the corresponding authority for the place in which the majority of their goods are held shall be competent.

In the event that the proceedings are not considered to correspond to the general state administration, they shall be transferred to the competent autonomous administration for the same.

3. The agreement to initiate proceedings shall be freely published in the «Official National Gazette» and once the transfer is made by the general state administration, on the websites of the Ministry of Finance and Public Administration, without prejudice to the possibility of using other additional methods of dissemination. A copy of the agreement shall be issued for publication on the notice boards of the town councils corresponding to the last address of the deceased, the place of their

death and the location of the majority of their goods. The edicts must be displayed for a period of one month.

Any interested party may submit allegations, documents or other elements for the hearing prior to the resolution of proceedings.

4. The Delegation of Economy and Finance shall complete the proceedings and investigations necessary to determine the provenance of the general state administration's rights of succession and shall include as much information as they can obtain regarding the deceased and their goods and rights, in the records.

To this end, if the aforementioned information has not been issued by the judicial body or the notary, any information about the deceased and their goods and rights to title deemed necessary for better enforcement of the proceedings shall be requested from public authorities and officials, registers and other public archives. Said information shall be freely provided, in accordance with the stipulations of article 64.

In the same way, citizens may be requested to collaborate, as set forth in article 62.

5. The state bar from the district must issue a report regarding the adequacy and sufficiency of the acts performed in order to declare the general state administration an intestate successor.

6. Conclusion of the proceedings and, when relevant, declaration as intestate successor in favour of the state in which award of the rights and goods of the inheritance are set out, corresponds to the General Directorate for State Assets, after prior report from the public prosecutor - directorate for state legal services.

The maximum deadline for concluding the proceedings shall be one year. However, if the legal inventory of the deceased's goods is not communicated to the administration before ten months from the start of proceedings, the deadline for resolving the issue shall be understood to be extended by up to two months after said inventory is received.

7. The sentence issued must be published on the same sites on which the agreement to initiate proceedings was announced and must be communicated, when relevant, to the judicial body who processed the intervention of the hereditary estate. Any sentence that declares the inadmissibility of declaring the administration heir must, in addition, notify the persons who do have the right to inherit.

8. Administrative certificates issued in the proceedings set forth in this section may only be appealed in contentious jurisdiction proceedings due to violation of regulations regarding jurisdiction or procedure, after prior exhaustion of the administrative proceedings available. Persons who consider themselves prejudiced with regards to their right of inheritance or other rights of a civil nature, by the declaration of intestate successor or the award of goods in the administration's favour, may perform the pertinent actions before the civil contentious administrative courts, after prior claim through administrative proceedings, in accordance with the regulations of Title VIII of Law 30/1992, of 26 November, on the Judicial Regime of Public Administrations and Common Administrative Procedure.»

Three. A new article 20 ter is added:

«Article 20 ter. Effects of the declaration of intestate successor.

1. Once the administrative declaration of intestate successor is issued, which supposes the acceptance of the inheritance with benefit of inventory, proceedings to take possession of the deceased's goods and rights shall take place and, when relevant, handover from the judicial authorities, of any that are in their custody shall be requested.

2. Any of the deceased's goods and rights not included in the legal inventory and later identified in the general state administration's declaration of intestate successor and in the ruling on hereditary goods and rights, shall be incorporated into the hereditary estate and shall be judged by the General Directorate for State Assets and via the investigation proceedings regulated in article 47.

However, in cases in which the right to the deceased's property consists of public registers or book entry securities or arises from holdings of bank accounts, securities titles, deposits or, in general, any items in which their right be unambiguous due to being based on formal title, the incorporation of goods shall be performed with the agreement of the delegation of Economics and Finance.

3. For the purposes of these investigatory proceedings, all authorities and officials, registers and any other public archives, must freely submit the information at their disposal regarding the deceased's goods and title rights. All tax administration bodies shall be likewise obliged to collaborate and supply any information at their disposal.

4. For the purposes set forth in articles 14 and 16 of the Mortgages Law, the administrative declaration of intestate successor, in which the award of hereditary goods is detailed or, when relevant, later rulings

from the General Directorate for State Assets or the Delegation of Economy and Finance, agreeing the incorporation and award of goods and rights into the hereditary estate, shall be sufficient title to record the fixed assets and rights in rem that appear in the same in the deceased's name, in favour of the administration, in the property register. If the fixed assets or rights in rem were not previously recorded, said title shall be sufficient to proceed with their registration.

5. No responsibilities shall arise for the general state administration from ownership of goods or rights integrated into the hereditary estate until such moment that these are handed over to them by the judicial body, or explicit possession of the same is taken.»

Four. A new article 20 quarter is added:

«Article 20 quarter. Liquidation of the hereditary estate.

1. Once in possession of the inheritance, the general state administration shall proceed to liquidate the goods and rights of the same, distributing them in the amounts obtained, in the manner set forth in article 956 of the Civil Code.

2. However, the government cabinet, taking into account the nature of the goods and rights included in the estate, may exclude all or some of them from the liquidation and distribution process.

3. In the same way, the General Directorate for State Assets may exclude from liquidation, any goods that they wish to preserve in the general state administration's own assets, for influence or subscription to their own services within their organisations or public assistance organisations. In this event, if the value of these goods is superior to one third of that which corresponds to the general state administration, the excess shall be compensated to the rest of the estate, by way of corresponding budgetary amendments.

4. Once the liquidation account for the intestate has been approved and the pertinent amounts paid into the treasury, a credit shall be generated for the amount equivalent to two thirds the value of the remaining estate in the parts assigned by the general state budget, to perform the transfers needed for social interest that are provided via tax allocation for this purpose, arising from the full amount of tax liability from personal income tax.»

Five. A new twenty third additional provision is added:

«Twenty third additional provision. Intestate succession of the Hospital of Our Lady of Grace of Saragossa.

Declaration of the Hospital of Our Lady of Grace of Saragossa as intestate successor shall be performed by the provincial administration of Aragon.»

Six. A new twenty fourth additional provision is added:

«Twenty fourth additional provision. Intestate succession of the provincial administrations of the historical territories of the Basque Country.

Declaration of the provincial administrations of the historical territories of the Basque Country shall be performed by the corresponding provincial administration.»

Seven. Sections 1, 2 and 5 of the second final provision are amended:

«1. The following provisions of this Law are made under the exclusive jurisdiction of the state with regards to the procedural legislation of article 149.1.6. of the Constitution, the following are for general application: article 20 bis, section 8; article 43; and article 110, section 3.

2. The following provisions of this Law are made pursuant to article 149.1.8. of the Constitution and are for general application, without prejudice to the stipulations of any provincial or special civil rights, where these may exist: article 4; article 5, sections 1, 2 and 4; article 7, section 1; article 15; article 17; article 18; article 20, sections 2, 3 and 6; article 22; article 23; article 30, sections 1 and 2; article 37, sections 1, 2 and 3; article 38, sections 1 and 2; article 39; article 40; article 49; article 53; article 83, section 1; article 97; article 98; and article 99, section 1.»

«5. The nature of the following provisions of this Law is of basic legislation, in accordance with that set forth in article 149.1.18. of the Constitution: article 1; article 2; article 3; article 6; article 8, section 1; sections 1 to 6 of article 20 bis; article 20 ter, article 27; article 28; article 29, section 2; article 32, sections 1 and 4; article 36, section 1; article 41; article 42; article 44; article 45; article 50; article 55; article 58; article 61; article 62; article 84; article 91, section 4; article 92, sections 1, 2 and 4; article 93, sections 1, 2, 3 and 4; article 94; article 97; article 98; article 100; article 101, sections 1, 3 and 4; article 102,

sections 2 and 3; article 103, sections 1 and 3; article 106, section 1; article 107, section 1; article 109, section 3; article 121, section 4; article 183; article 184; article 189; article 190; article 190 bis; article 191; first temporary provision, section 1; fifth temporary provision; twenty third and twenty fourth additional provisions.»

Ninth final provision. *Amendment to Law 50/1980, of 8 October, on Insurance Contract.*

The sixth paragraph of article 38 now reads as follows:

«When there be no agreement between experts, both parties shall designate a third expert. Should one not exist, a report may be requested, in the manner set forth in the Law on Non-Contentious Proceedings or in notarial legislation. In these cases, the expert report shall be issued within the deadline specified by the parties or, there being no deadline specified, within thirty days of the third expert accepting their appointment.»

Tenth final provision. *Amendment to Law 41/2003, of 18 November, on the protection of assets of disabled persons and amendment to the Civil Code, the Law on Civil Procedure and the Tax Regulation for this purpose.*

Section 2 of article 5 is amended to read as follows:

«**2.** In all other cases, the administration rules established in the official document of constitution, must set forth the obligatory nature of legal authorisation in the same situations that the guardian requires with regards to the ward's goods, in accordance with articles 271 and 272 of the Civil Code or, when relevant, in accordance with the stipulations of any regulations of special or provincial civil laws that may be applicable.

Notwithstanding that set forth in the previous paragraph, authorisation is not necessary when the beneficiary has sufficient capacity to act.

In no circumstance shall a public auction be necessary for the transfer of the goods or rights that form the protected assets.

In all circumstances and in accordance with the same end purpose of the protected assets and fulfilment of the vital requirements of its holders, with the same goods and rights integrated within it, as well as the fruits, products and results of the same, the spending of money and consumption of consumable goods from within the protected heritage shall be not considered acts of disposal when they are performed to fulfil the vital requirements of the beneficiary.»

Eleventh final provision. *Amendment to Law of 28 May 1862, on Notaries.*

One. A new Title VII is introduced, with the following content:

«TITLE VII

**INTERVENTION OF NOTARIES IN SPECIAL PROCEEDINGS
AND CERTIFICATES**

CHAPTER I

GENERAL RULES

Article 49.

Notaries shall intervene in special proceedings, authorising certificates or public deeds:

1st. When the proceeding is regarding the declaration of non-contention by the instigator or the completion of a legal certificate implying the granting of consent, the notary shall authorise a public deed.

2nd. When the proceeding is regarding confirmation or verification of an act, the perception of the same, or their hearings or qualifications, the notary shall proceed to extend and authorise a certificate.

Article 50.

1. In the month of January each year, it shall be in the interest of the Dean of each notaries' society from various professional associations and analogous entities such as academies and cultural or scientific institutions who are occupied with the study of matters corresponding to that of experts, to issue a list of collegiates or associates prepared to act as experts, which shall be at the disposal of the notaries in the Notaries Society. In the same way, any professional who can accredit the relevant knowledge in the corresponding matter, may request to form part of the aforementioned list, independent of their membership or lack thereof to a professional association. The first nominations for each list shall be performed by drawing names, in the presence of the Dean of the Notaries' Society and from that point, the society shall effect the following nominations in the same order that they are requested by the Notaries belonging to said society.

2. If a person without official title, experienced or knowledgeable in the subject has to be appointed as an expert, after summoning the parties,

the appointment shall be made by the procedure established in the preceding paragraph, using to this end a list of individuals that shall be requested each year from the appropriate syndicates, associations and entities and shall be composed of a minimum of five of such individuals. If, due to the singular nature of the subject matter of the opinion, the name of only one single knowledgeable or experience person is available, the consent of the parties shall be requested and the said individual shall be appointed as expert only if the parties grant their consent.

CHAPTER II

ON THE CERTIFICATES AND PUBLIC DEEDS REGARDING MATRIMONY

1st Section On the matrimonial certificate and public deed of the celebration of marriage

Article 51.

1. Persons who shall contract marriage, for which the issue of a certificate is required, in which the fulfilment of the requirements for capacity of both of the couple, the non-existence of impediments or the exemption thereof, or any type of obstacle to contracting marriage is stated, must previously request the proceedings before a notary with jurisdiction in the place of residence of either of the couple.

2. The application, processing and authorisation of the certificate shall be adjusted according to the stipulations of article 58 of Law 20/2011, of 21 July on Register Offices and, wherever not set forth therein, of this present Law.

Article 52.

1. If the certificate is in favour of the celebration of the marriage, this shall take place before the notary who intervened in the processing of said certificate, by way of granting the public deed in which all circumstances established by the Law of Register Offices and the regulation thereof were satisfied.

2. When the couple to be married, in the initial application or during the processing of the certificate, have requested that the granting of consent be performed before a justice of the peace, mayor or designated councillor, or another notary, a copy of the certificate shall be submitted to the chosen official, who shall limit themselves to performing the marriage and shall submit the certificate or grant the

public deed, as appropriate, in accordance with all relevant legal requirements.

3. If the marriage is celebrated under risk of death, the notary shall issue public deed when the granting of consent is submitted, after prior medical opinion regarding their aptitude to grant said consent and regarding the gravity of the situation when the risk exists due to the illness or physical state of one of the couple to be married, unless aforementioned report is proven impossible. Afterwards, the notary shall proceed to issue the certificate of proof of the requirements for validity of the marriage.

2nd Section On certification of the existence of a legal matrimonial financial regime

Article 53.

1. Whosoever desires explicit record at the register office of the legal matrimonial financial regime relating to their marriage when this has not been recorded previously, must apply for the proceedings via certification from the notary with jurisdiction in any of the spousal residences they have had, or in the habitual address or residence of either of the spouses, or wherever the majority of their goods are held, or where they fulfil their work or business activities, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts.

2. The request to initiate certification must be accompanied by documents accrediting the identity and address of the applicant. The non-existence of a recorded matrimonial financial regime must be accredited by register office information.

The applicants must affirm the truth of the positive and negative proceedings on which the certificate shall be founded. They shall provide any documentation they deem relevant for the determination of the proceedings and they must be accompanied by accrediting documents from their regional citizenship at the point of contracting marriage and, should this not exist, they must submit information from at least two witnesses who attest to the truth of the proceedings from which the application for legal matrimonial financial regime arises.

3. Once the previous legal measures have been completed, the notary must record their judgement on whether the proceedings are accredited and, if they consider the legal matrimonial financial regime sufficiently accredited, shall issue, on the same day and through telematic means, an electronic copy of the certificate to the corresponding register office.

In the opposite case, the notary shall close the procedure in the same way and any interested parties in dispute may exercise their right in a corresponding hearing.

3rd Section. On public deeds for matrimonial separation or divorce

Article 54.

1. The spouses, if they do not have non-emancipated, underage children or legally incapacitated persons who depend on them, may agree their matrimonial separation or divorce via mutual agreement, by formulating a regulatory agreement in public deeds. They must submit their consent before the notary from their last common address or from the habitual address of either of the applicants.
2. The spouses must be assisted by a practising barrister when granting the public deeds.
3. The application, processing and granting of public deeds shall be adjusted in accordance with the stipulations of the Civil Code and this present Law.

CHAPTER III

ON PROCEEDINGS REGARDING SUCCESSIONS

1st Section. On the declaration of intestate successors

Article 55.

1. Whosoever is considered to have the right of intestate successor to a deceased person, whether their descendants, ascendants, spouse or person connected by way of analogous relation to that of a spouse, or their collateral relatives, may request a declaration of intestate successor. This shall be processed by way of certificate authorised by the notary competent to act in the place in which the deceased had their last residence or habitual address, or where the majority of their assets are held, or in the place of their death, as long as this was within Spain, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts. In the absence of any of these, the competent notary shall be the one from the place of residence of the applicant.
2. The certificate shall be initiated at the request of any person with legitimate interest, in the notary's judgement, and its issue shall be processed in accordance with the stipulations of this present Law and Notarial regulations.

Article 56.

1. The requirement for the initiation of the certificate must contain the designation and identifying information regarding the persons the applicant considers named in the inheritance and must be accompanied by accrediting documentation of the relationship of the deceased with the persons designated as heirs, as well as the identity and address of the deceased. In all cases, the death of the deceased must be accredited and that this occurred without succession title by way of information from the register office and the general register of last wills and testaments or, when relevant, by way of authentic documentation resulting from notary hearing, unequivocally that, despite the existence of a will or contract of succession, intestate succession may proceed, or through final decision declaring the invalidity of the succession title or the institution of heir. The documents submitted or testimony of the same shall be incorporated into the certificate.

The applicant must affirm the truth of the positive and negative proceedings on which the certificate shall be founded and must provide any testimonial information relating to how the person whose succession is being dealt with, died without last will and testament and of the persons designated their only heirs.

Should any of the interested parties be minors or legally incapacitated persons and do not have any legal representative, the notary shall communicate this circumstance to the public prosecution service, for them to request a court-appointed guardian.

2. The certification must contain, at least, the declaration of two witnesses affirming that in their own knowledge or from repute, they agree with the positive and negative proceedings whose declaration of notoriety is sought. Aforementioned witnesses may be, when relevant, relatives of the deceased, whether by consanguinity or collateral, as long as they have no direct interest in the succession.

The notary, with the aim of procuring the audience of any interested party, shall perform any tests they deem appropriate, as well as those requested by the applicant, and in particular, any designed to accredit the identity, address, nationality and regional citizenship and, when relevant, any foreign law applicable.

If the identity or address of any of the interested parties is unknown, the notary shall request, *ex officio*, the assistance of any bodies, registers, public authorities or consulates that, for reason of their jurisdiction, may have archives or registers relating to the identity of

the persons or their addresses, in order that said notary be freely furnished with the requested information, if possible.

If it is not possible to verify the identity or address of any of the interested parties, the notary must publicise the proceedings for each certification via public announcement in the “Official National Gazette” and may, if they consider it convenient, use other additional means of communication. The notary must also issue an announcement of the certification on the notice boards of the town halls corresponding to the deceased’s last address, their place of death and if different, the place where the majority of their fixed goods are located.

Any interested party may oppose the claim, submit allegations or supporting documents or other elements for a hearing, within a period of one month from the date of publication or, when relevant, the last issue of the announcement.

3. Once the previous legal measures have been finalised and a period of twenty working days has transpired from the date of initial requirement or termination of the period of one month granted to submit allegations in the event of having published an announcement, the notary shall make their decision known regarding the accreditation for notoriety of the proceedings and presumptions on which the declaration of heirs is based. Whatever the decision of the notary, the certification proceedings shall cease and it shall proceed to be legalised.

In the event that it is affirmative, the notary shall declare which of the deceased’s relatives are intestate successors, expressing the circumstances of their identity and the rights that by law, correspond to them regarding the inheritance.

The certification shall include the reservation of the right to exercise a claim before the courts for those whose right to inheritance has not been accredited before the notary hearing and any persons who have not been located. Any persons who feel their right has been prejudiced may also make use of the corresponding appeals process.

Once the declaration of intestate successor has been made, when relevant, the judicial authority may be requested to hand over any goods in their custody, as long as none of the heirs requests the legal division of the inheritance.

4. Once a period of two months has transpired from when the interested parties were announced, without anyone having presented themselves or if they were declared without right, any who have approached to

claim the inheritance and if, in the notary's judgement there is no person with the right to be named, a copy of the certificate of process shall be issued to the corresponding Delegation of Economy and Finance for the proceeding administrative declaration of heirship. In the event that aforementioned declaration is not considered to correspond to the general state administration, the Delegation shall transfer said notification to the competent autonomous administration for the same.

2nd Section. On the submission, attestation, opening and legalising of sealed wills

Article 57.

1. The submission, attestation, opening and legalising of sealed wills shall be done before a notary with jurisdiction to act in the district in which the deceased had their last residence or known address, or where the majority of their assets are located, independent from the nature of their conformity with the applicable law, or in the district in which they died, as long as this was within Spain, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts. In the absence of any of these, the competent notary shall be the one from the place of residence of the applicant.

2. If, after ten days have transpired since the death of the testator, the will has not been submitted in accordance with the stipulations of the Civil Code, any interested party may request the notary to require the person who has possession of the sealed will to appear before said notary. The identifying information regarding the deceased must be proven, as must the death itself and whether the deceased issued further testamentary provisions, by way of information from the register office and the General Register of Last Wills and Testaments. If the deceased was estranged from their family, the reason for which they have interest in the submission of the will must also be expressed and accredited in the application.

3. When any person who has in their possession a sealed will appears before a notary, in accordance with the stipulations of article 712 of the Civil Code and declares their lack of interest in the attestation and legalisation of the will, the notary shall require whosoever may have an interest in the inheritance, in accordance with statement by the person appearing, and in all cases if they are known, the surviving spouse, any descendants and ascendants of the deceased and, in the absence of these, any collateral relatives to the fourth degree, so that they may

declare their interest and start proceedings before the competent notary.

Should any of the interested parties be minors or legally incapacitated persons and do not have any legal representative, the notary shall communicate this circumstance to the public prosecution service, for them to request a court-appointed guardian.

4. If the identity or address of these persons should be unknown, the notary shall publicise the proceedings on the notice boards of the town halls corresponding to the last address or habitual residence of the deceased, the district of their death if this was different and the district where the majority of their goods are located, without prejudice to the possibility of using other additional means of communication. The announcements must be displayed for a period of one month.

5. Once three months has transpired from the point of completing all the requirements or from the completion of the deadline for the last display of the announcement, without any person having submitted the will, despite the requirement, or without any interested party having requested proceedings, the issue shall be archived, without prejudice to the option of reopening proceedings at the request of any interested party.

Article 58.

1. Whoever submits the will, or any other interested party, may request that the notary, once the death of the testator has been accredited, summon them for the nearest possible date, with the notary who authorised the testament, if different, and when relevant, any instrumental witnesses who may have intervened in the drawing up of the will.

2. The aforementioned witnesses who appear on the summons date, shall be examined and shown the sealed documents in order that they examine them and declare under oath or sworn testimony whether they recognise as legitimate the signature and text on which their name appears and if they find it in the same state as when they signed it.

3. When one or some of the summoned parties do not appear, the others shall be asked if they saw the others sign and make their marks. The notary may agree, if they deem it necessary, to a handwriting comparison or other legal measures conducive to verifying the authenticity of the signatures of the persons who did not appear, and of the deceased.

Article 59.

1. Once the measures referred to in the previous article have been completed and the conclusions of which have resulted in the granting of the will, with all the formalities duly prescribed by law, the notary shall open the documents and read the testamentary provisions aloud, as long as there be no provision from the testator ordering that one or some of the clauses remain reserved and secret until a certain time, in which case the reading shall be limited to the other clauses in the testamentary provision.

2. Any relatives of the testator or other persons who may presume any interest, may be present for the opening of the documents and reading of the will, should this be convenient, without allowing them to oppose any legal measures being fulfilled for any reason, even though they may present a previous will.

Article 60.

1. Once the previous procedures have been completed, the notary shall issue a certificate of legalisation, in accordance with this present law and its regulations on enforcement.

2. Should the notary conclude that the will does not meet the formalities prescribed by the law or that, in their judgement, the authenticity of the documents has not been accredited, they shall declare the same, close the proceedings and shall not authorise the legalisation of the will.

Whether or not legalisation is authorised, interested parties in dispute may exercise their rights in any corresponding hearing.

3rd Section. On the submission, attestation, opening and legalisation of holographic wills.

Article 61.

1. The submission, attestation, opening and legalising of holographic wills shall be done before a notary with jurisdiction to act in the district in which the deceased had their last residence or known address, or where the majority of their assets are located, independent from the nature of their conformity with the applicable law, or in the district in which they died, as long as this was within Spain, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts. In the absence of any of these, the competent notary shall be the one from the place of residence of the applicant.

2. If, after ten days have transpired since the death of the testator, the will has not been submitted in accordance with the stipulations of the Civil Code, any interested party may request the notary to require the person who has possession of the holographic will to appear before said notary. The identifying information regarding the deceased must be proven, as must the death itself and whether the deceased issued further testamentary provisions, by way of information from the register office and the General Register of Last Wills and Testaments. If the deceased was estranged from their family, the reason for which they have interest in the submission of the will must also be expressed in the application.

3. Should a person appear before the notary who has in their possession a holographic will, in accordance with the stipulations of article 690 of the Civil Code and declares that they have no interest in the attestation or legalisation of the will, the notary shall proceed in accordance with the stipulations of section 3 of article 57.

4. Applications received after five years have transpired since the death of the testator shall not be admitted.

Article 62.

1. Once the holographic will has been submitted, at the request of the person who submitted it, or any other interested party, the notary must request the surviving spouse should there be one, any descendants and ascendants of the testator and in the absence of either of these, any collateral relatives to the fourth degree, to appear before said notary, on a specific date and time.

2. If the identity or address of these persons should be unknown, the notary shall publicise the proceedings on the notice boards of the town halls corresponding to the last address or habitual residence of the deceased, the district of their death if this was different and the district where the majority of their goods are located, without prejudice to the possibility of using other additional means of communication. The announcements must be displayed for a period of one month.

3. Should any of the persons referred to be minors or legally incapacitated persons and do not have any legal representative, the notary shall communicate this circumstance to the public prosecution service, for them to request a court-appointed guardian.

4. If the applicant has requested through the notary, the appearance of witnesses to declare the authenticity of the will, the notary shall summon them to appear at a specific date and time.

5. On the indicated date, the notary shall open the holographic will, should it be sealed, initial it on each page and examine the witnesses. Once at least three witnesses who knew the handwriting and signature of the testator have declared that they have no reasonable doubt that it is the manuscript and signature of the deceased, the notary may dispense with any witness statements that may be lacking.

In the absence of suitable witnesses or should the examined parties be doubtful, the notary may agree, should it be deemed convenient, to an expert handwriting examination.

6. The interested parties may attend during fulfilment of the legal measures and make any observations in the certification they deem appropriate, regarding the authenticity of the will, which shall, when necessary, be recorded by the notary in the certification.

Article 63.

If the notary considers the authenticity of the will justified they shall authorise certification of the act of legalisation and shall issue a copy of the same to any interested parties who request it.

In the opposite case, the notary shall declare the same, close the proceedings and shall not authorise the legalisation of the will.

Whether or not legalisation of the will is authorised, any interested parties in dispute may exercise their rights in any corresponding hearing.

4th Section. On the submission, attestation, opening and legalisation of orally drawn up wills

Article 64.

1. The submission, attestation, opening and legalising of orally drawn up wills shall be done before a notary with jurisdiction to act in the district in which the deceased had their last residence or known address, or where the majority of their assets are located, independent from the nature of their conformity with the applicable law, or in the district in which they died, as long as this was within Spain, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts. In the absence of any of these, the competent notary shall be the one from the place of residence of the applicant.

2. Any interested party may request the notary to prepare the corresponding certification of legalisation for an orally drawn up will.

3. The identifying information regarding the deceased must be proven, as must the death itself and whether the deceased issued further testamentary provisions, by way of information from the register office and the General Register of Last Wills and Testaments. If the deceased was estranged from their family, the reason for which they have interest in the submission of the will must also be expressed in the application.

The application shall be accompanied by a note, memo or supporting evidence where the voice, audio or video was recorded, with the testator's last testatory provisions, as long as reproduction of the same is permitted and was made at the time of executing the will.

In the same way, the names of witnesses shall be given, who must be summoned by the notary to appear regarding the effects of the execution of the will.

Article 65.

1. After accepting the request, the notary shall summon the witnesses indicated on the application, for them to appear before said notary on a specific date and time. If the person summoned as a witness should fail to appear and there be no cause justifying their absence, the notary shall again summon them, indicating a new time and date for their appearance.

If the will of the testator is consigned to a note, memo or lasting digital or magnetic format, it shall be shown to the witnesses in order that they confirm whether it be the same person they heard reading or recording it and if they recognise as legitimate the respective signatures and marks, if there are any.

2. The provisions established in the previous articles shall be applied, with regards to the summons and appearance of any persons who have interest in the completion of aforementioned proceedings.

3. The notary shall record all the proceedings in the certification and shall authorise legalisation of the will, without prejudice to a third party, once the witness statements are completed and the following circumstances are clearly proven:

1st. That there was legal cause to execute the will in oral form.

2nd. That the testator was of sound mind and deliberation upon drawing up their last will.

3rd. That the witnesses all simultaneously heard, from the mouth of the testator, all the provisions said testator wished to have as their last will, whether displayed in writing, whether read out loud or having been given a note or memo to read that contained said will.

4th. That the witnesses constituted the number required by law, according to the circumstances of the place and time in which the will was drawn up and that they meet the requirements for being a witness to wills.

4. If any divergence results from any of the witness statements, this shall be recorded in the certification and only the testamentary items on which all witnesses were in agreement shall be legalised. If there be no agreement on any of the items, the proceedings shall be archived without legalisation.

5. If the last will and testament was consigned on a note, memo or durable digital or magnetic format, the testament shall be considered whatever results from these, during the execution of said testament, as long as all the witnesses agree to its authenticity, even if any of them should not remember one of its provisions. This shall be recorded in the certification of legalisation, to which the note, memo or durable digital or magnetic format shall be attached.

6. If the notary does not consider the authenticity of the will proven, they shall certify as such, close the proceedings and shall not authorise legalisation of the will.

Whether or not legalisation of the will is authorised, any interested parties in dispute may exercise their rights in any corresponding hearing.

5th Section On testaments and executors dative

Article 66.

1. The notary shall authorise public deed:

a) In circumstances when the executor renounces their position or where there is extension of deadline for executorship, should just cause exist.

b) For the appointment of an executor dative in the cases set forth in article 1057 of the Civil Code. The appointment shall be made in accordance with the stipulations of article 50.

c) In circumstances where the appointed executor renounces their position or the extension of the fixed period in which to complete their role.

d) For the approval of the partition completed by the executor when it becomes necessary due to lack of express confirmation from all heirs and legatees.

2. Any notary with jurisdiction to act in the district in which the deceased had their last residence or known address, or where the majority of their assets are located, independent from the nature of their conformity with the applicable law, or in the district in which they died, as long as this was within Spain, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts. In the absence of any of these, the competent notary shall be the one from the place of residence of the applicant.

3. The notary may also authorise public deed if required for this, on the excuse from or acceptance of the role of executor.

6th Section. On the creation of inventory

Article 67.

1. Any notary with jurisdiction to act in the district in which the deceased had their last residence or known address, or where the majority of their assets are located, independent from the nature of their conformity with the applicable law, or in the district in which they died, as long as this was within Spain, shall be competent to form the inventory of the deceased's goods and rights for the effects of accepting or rejecting the inheritance by those named in it, at the request of the applicant. They may also choose a notary from a district adjoining any of the previous districts. In the absence of any of these, the competent notary shall be the one from the place of residence of the applicant.

2. Any heir who requests the creation of an inventory must submit their succession title and must prove the same to the notary or prove the deceased's death and the existence of testamentary provisions, through information from the register office or the General Register of Last Wills and Testaments.

3. Once this requirement is fulfilled, the Notary must summon any creditors and legatees to appear, if convenient, to witness the inventory. If the identity or address of these persons should be unknown, the notary shall publicise the proceedings on the notice boards of the town halls corresponding to the last address or habitual residence of the

deceased, the district of their death if this was different and the district where the majority of their goods are located, without prejudice to the possibility of using other additional means of communication. The announcements must be displayed for a period of one month.

Article 68.

1. The inventory shall commence within thirty days of the summons to creditors and legatees.

2. The inventory shall contain information on the deceased's goods, as well as any writings, documents or papers of import that be found, referring to fixed or moveable goods. Certificates of ownership and encumbrances for any fixed goods recorded in the land register shall be provided or obtained by the notary. Certificates or documentation issued by the depository entities for metal or transferable securities deposited in financial entities shall be provided, and if said securities are officially listed, their value on a specific date shall be included. If, by the nature of the goods, any interested parties deem it necessary for experts to intervene in their valuation, the notary shall appoint said experts in accordance with the stipulations of this present law.

3. The liabilities shall include information relating to any debts or obligations, as well as the periods in which they must be completed, requesting current indication from any creditors on the amount of the same, as well as the circumstances of any that have become overdue. Should this information not be received from the creditors, the full amount of the debt or obligation shall be included.

4. The inventory must conclude within sixty days of the start of the same. If just cause is shown for why this period of sixty days be considered insufficient, the notary may extend the period to a maximum of one year. Once the inventory is complete, it shall be closed and the certification legalised. In all circumstances, third party rights shall remain.

CHAPTER IV

ON PROCEEDINGS REGARDING LIABILITIES

1st Section On the offer of payment and consignment

Article 69.

1. The offer of payment and consignment of the goods to which it refers may be made before a notary.

2. The person who requests the proceedings shall provide the information and circumstances of the identity of the interested parties for the liability to which offer of payment or consignment refers, the address at which they can be found and the reasons for the proceedings; all relating to the subject of payment or consignment and their being put before the notary.

3. When the consigned goods consist of money, securities or financial instruments, broadly speaking, they shall be necessarily deposited by the notary into a financial entity collaborative with the Administration of Justice.

If they are of a different nature to those indicated in the previous section the notary shall arrange for their deposit or shall entrust their custody to a suitable establishment, ensuring that the necessary measures are adopted for their preservation, which shall be appropriately justified by legal diligence in the certification.

4. The notary shall notify the interested parties of the existence of the offer of payment or consignment, with the intention that within ten working days, they accept the payment, withdraw the due item or file the allegations they deem appropriate.

Should the creditor respond by accepting the payment or the consignment within the deadline, the notary shall hand over the asset, record said proceedings in the records and conclude the proceedings.

Should the aforementioned period expire without any withdrawal, no allegation filed or there be a refusal to receive it, the consigned good shall be returned without further action and the proceedings shall be archived.

2nd Section Uncontested pecuniary claims

Article 70.

1. Any creditor who seeks payment of a civil or commercial debt, whatever its amount or origin, liquidated, fixed, overdue or payable, may request the notary competent in the district of the debtor named in the document accrediting the debt or the documentary evidence, or in the habitual residence of the debtor, or the district where the debtor may be located, to request payment from said debtor, when the debt, formally accredited through documentation is, in the notary's opinion, beyond any doubt. The debt must be itemised into principal and any accumulated interest and overdue penalties applied.

The following may not be claimed through this proceeding:

- a) Debts arising from a contract between a business person or professional and a consumer or user.
- b) Debts based on article 21 of Law 49/1960, of 21 July, on Horizontal Property.
- c) Debts for food products in which minors or legally incapacitated persons are interested, nor any that arise from unsuitable matters or operations subject to judicial authorisation.
- d) Claims in which the public administration is involved.

2. To this effect, notarial certification shall be authorised to cover the following circumstances: the identity of the creditor and debtor; the address of both parties, according to the document originating the claim, unless any documents exists proving amendment of the same, in which case both must be recorded, together with the origin, nature and amount of the debt. Any document or documents constituting the title of the claim shall also accompany the certification.

The notary shall not accept the application if it deals with any excluded claims, if it lacks any of the previous information or documentation, or if they are not competent.

3. Once the creditor's application has been accepted and the existence of the requirements set forth in the previous sections proven, the notary shall require the debtor to pay the claimant within the period of twenty working days.

If the debtor cannot be located in any of the possible addresses accredited in the paperwork, or it is not possible to submit the requirement, the notary shall close the proceedings, recording said circumstances and maintaining the creditor's right to exercise the claim through judicial channels.

4. The requirement shall be deemed to have been correctly submitted to the debtor if they are located and payment is requested by the notary, even if they refuse to take possession of the accompanying documentation, which shall remain available to them with the notary. The requirement shall also be correctly submitted if it is handed at the debtor's place of residence to any employee, relative or person with whom the debtor lives, as long as they are of age. The notary must advise the person taking receipt that they are obliged to hand the requirement to the addressee or advise them of its delivery if they know their whereabouts. If the requirement is delivered in the place of non-casual work of the addressee, in the absence of the

aforementioned, the obligation shall apply to the person who is responsible for receiving documents or items.

In the event that the addressee is a incorporated entity, the notary shall undertake the legal measures with whichever person of legal age they meet on the premises indicated in the aforementioned document, who forms part of the administrative body and who is accredited to be a representative with sufficient faculty that, in the notary's opinion, they may act as a person authorised by the incorporated entity to receive authoritative requirements and notifications in their interest.

Article 71.

1. Once the requirement is fulfilled, if the debtor appears before the requesting notary and pays the debt in full within the period of the following twenty working days, the certification must record as such in the proceedings as due legal measure, which shall be regarded as letter of payment. In this event, the notary shall proceed without delay, to submit the paid amount to the creditor in the format requested by said creditor.

If the debtor pays the creditor directly and within the established deadline, once this act has been accredited, with explicit confirmation from the creditor, the notary shall close the file and conclude proceedings.

If there be no explicit confirmation from the creditor within the deadline period set for the payment, the notary shall also close the file, leaving it open to judicial channels.

2. If the debtor appears before the notary to formulate an opposition to the requirement, the motives on which they base their opposition shall be recorded for legal measure. Once this circumstance has been communicated to the creditor, the notarial proceedings shall close, leaving open the creditor's rights to claim the debt through judicial channels.

When various debtors are required for one single debt, the opposition of one may take place at the end of the notarial proceedings for all, if there is just cause, whilst recording any payments some of them may have made.

3. If in the established deadline the debtor fails to appear and does not present motive for opposition, the notary shall record said circumstance.

In this event, the certification shall be the document attached to enforcement of the effects of number 9 of section 2 of article 517 of the

Law on Civil Procedure. Said enforcement shall be transmitted in accordance with the stipulations for extrajudicial executive titles.

CHAPTER V

ON NOTARIAL AUCTION PROCEEDINGS

Article 72.

1. Any auctions held before a notary as fulfilment of a legal provision, shall be governed by the respective regulations for the same and, in the absence of any, by those of this present Chapter.

Any auctions held before a notary as fulfilment of a judicial or administrative decision, or through a contractual or testamentary clause, or as enforcement of an arbitration award or mediation agreement, or by special agreement by public instrument, or voluntary, shall also be governed by the regulations of this current Chapter.

2. In all cases, the regulations established for electronic auctions in procedural legislation, assuming they are compatible, shall always be applied in a supplementary capacity.

3. If there are none available and the auction is held as fulfilment of a judicial or administrative decision, in the absence of appointment by agreement of all the interested parties between the notaries with jurisdiction in the judicial or administrative authority, the competent notary shall be the one appointed from amongst the competent options, by the holder of the auctioned good or right or the majority of the same, if there are various. If the various holders were owners in equal parts, the choice of notary shall fall to whichever was holder first. If it cannot be determined to whom the appointment of notary falls, or it is not communicated to the corresponding judicial or administrative authority within the period of five days from the requirement to effect it, one shall proceed to be appointed in accordance with the stipulations regulating all of the competent notaries.

In remaining cases, the competent notary shall be whichever is freely chosen by all interested parties. In the absence of this and in the absence of any provision to this effect, the competent notary shall be whichever is freely chosen by the requester, if it is regarding the holder of an auctioned good or right. If not, the competent notary shall be the skilled notary in the habitual address or residence of the holder or any of the holders, if there are various, or from the location of the good or the majority of the goods, at the choice of the requesting person. They

may also choose a notary from a district adjoining any of the previous districts.

Article 73.

1. The notary, at the request of a legitimate person to instigate the sale of a fixed or moveable good or a specific right, shall proceed to call the auction, after prior examination of the application and confirming the identity and capacity of the requester and their legitimacy to instigate said proceedings.

The auction shall be electronic and shall take place in the auctions portal of the state agency Official National Gazette. In all cases, it shall fall to the notary to authorise the proceedings recording the necessary circumstances and the result of the auction and, when relevant, the authorisation of the corresponding public deed of sale.

2. The applicant shall prove to the Notary their ownership of the good or right to be auctioned, or their legitimacy to dispose of it, its freedom from or status of liabilities against the good or right, its leasing or possessory situation, its current physical state, any pending obligations, valuation for the auction and any other circumstances that may affect its value, as well as, when relevant, on whose behalf they are acting.

3. After proving compliance with the previous requirements and after prior consultation of the public insolvency register for the effects set forth in special legislation, the notary shall, when relevant, accept the request. If the proceedings are agreed, the notary shall notify the public insolvency register of the existence of the same, with explicit indication of the tax identification number of the individual holder or incorporated entity whose goods shall be the subject of the auction. The public insolvency register shall notify the notary if they are aware of any proceedings in any district, associated with the tax identification number of which they were advised regarding the effects set forth in insolvency legislation.

The notary shall advise the public insolvency register of the completion of proceedings once they have concluded.

4. Once the proceedings are agreed, if they refer to a fixed good or a right in rem registered in the land register, or moveable goods subject to a public registration regime similar to these, the notary shall request electronic proceedings for ownership and encumbrances certification. The registrar shall issue the certification in the same manner and shall note the circumstances of the property or right. This note shall produce the effect of indicating the sales situation via auction of the good or

right and shall expire six months from the date of the same, unless the notary previously notifies the registrar of the closure or suspension of the proceedings, in which case the period shall be calculated from the point when the notary announces its renewal.

The registrar shall immediately and in telematic format, notify the notary and the auctions portal for the state agency Official National Gazette, regarding the act of having submitted one or other titles that may affect or amend the initial information.

The auctions portal shall gather the information provided by the register immediately to pass it onto anyone consulting its content.

Article 74.

1. The announcement for auction shall be published in the “Official National Gazette”, as well as the locations nominated by the promoter of the proceedings.

The call to auction must be announced with at least 24 hours’ notice from the moment in which the period for submitting positions shall be opened.

The announcement shall only contain the date, name and surnames of the notary responsible for the auction, the place of residence and the registration number assigned for the opening of proceedings and the website address for the auction on the auctions portal. On the latter, the general and special conditions for the auction shall be indicated, as well as the goods to be auctioned and any dates or circumstances considered relevant, plus the minimum amount admissible for bids, when relevant. The registration certification, when referring to goods subject to public registration, may be consulted via the auctions portal, which shall inform of any amendment to its ownership or encumbrances. It shall also indicate, when relevant, the option of visiting the fixed object at the auction or examining the necessary guarantees regarding the moveable good or accrediting titles of credit, if there are any.

2. The notary shall notify the holder of the good or right, unless this is the applicant themselves, regarding the start of proceedings, as well as the full contents of their announcement and the following proceedings for establishing the type of auction. The notary shall also require them to appear in the proceedings, to defend their interests.

The legal measures shall either be performed in person, via certified letter with acknowledgement of receipt to the registered fixed address or, in the absence of this, by official record or, when referring to non-registered goods, it shall be issued to the accredited habitual address

of the holder. If the address is unknown, the notification shall be performed via edicts.

The legal measures shall either be performed in person, via certified letter with acknowledgement of receipt to the registered fixed address or in any of the formats set forth in notarial legislation, to the registered fixed address. When referring to non-registered goods, it shall be sent to the accredited habitual address of the holder. If the address is unknown, the notification shall be performed via edicts.

The notary shall communicate through the same means, when relevant, the holding of the auction, to the holders of the rights and encumbrances that appear on the certificate of ownership, and to any leaseholders or occupants identified on the application. If it is not possible to locate them, the same publicity shall be applied as that set forth for the auction.

3. If the valuation is not contractually established or it has not been provided by the applicant when said applicant could do so, it shall be fixed by an expert appointed by the notary, in accordance with the stipulations of this law. The expert shall appear before the notary to submit their report and ratify the same. The aforementioned valuation shall constitute the type of bid. Bids under this type shall not be accepted.

4. If the holder of the good or a third party who believes they have a right to it, should appear opposing the holding of the auction, the notary shall record their opposition and the reasons and documents offered in support of the same, while reserving any further actions that may apply. The notary shall suspend the proceedings should the corresponding submission justify it, reopening them should it not be admissible.

Article 75.

1. The electronic auction shall be held subject to the following rules:

1st. The auction shall take place on the auctions portal of the state agency Official National Gazette, to whose management system the notaries shall be connected, through the information technology systems belonging to the General Council of Notaries. All exchanges of information that must be performed between the notaries and the auctions portal shall be performed telematically.

2nd. The auction shall open at least 24 hours from the date of publication of the announcement in the “Official National Gazette”, once the necessary information has been issued to the auctions portal for the start of the same.

3rd. Once the auction is open, only electronic bids may be made for at least a period of twenty calendar days from its start. It shall proceed, whenever it does not oppose this present chapter, in accordance with the applicable regulations set forth in the Law on Civil Procedure. In all cases, the auctions portal shall indicate the existence and amount of bids for its duration.

4th. In order to participate in the auction it shall be necessary to be in possession of the corresponding accreditation to take part in the same, after having been assigned, in electronic format, 5 percent of the value of the goods or rights.

If the applicant wishes to participate in the auction, the constitution of this assignment shall not be required. Neither shall it be required from the joint owners of the good or right being auctioned.

2. On the date of closure of the auction and as a continuation of the same, the auctions portal shall issue certified information to the notary on the winning telematic bid as well as, in order of decreasing amounts or chronology, should they be the same, of all the others who have opted to make a reserve bid.

The notary shall issue the corresponding legal measures in which they shall record any aspects of legal significance; any claims presented and the reservation of any corresponding rights before the courts of justice; the identity of the highest bidder, the price offered by the same and the positions of those under the highest and the identity of the bidders; the opinion of the notary that the auction observed all the legal regulations by which it was governed, as well as the awarding of the good or right auctioned by the applicant. The notary shall close the proceedings, recording that the auction is concluded and that the good or right has been awarded, and shall proceed to legalisation of the same.

If there are no bidders, the notary shall record the same, declare the auction cancelled and close the proceedings.

3. In successive legal measures, payment of the rest of the price by the winning bidder must be recorded, within a deadline of ten working days, into the entity attached to the auctions portal, at the disposal of the notary; the handover by the notary to the applicant or their deposit

for legal provision, or in favour of the interested parties, in the amounts received by the winning bidder; and the return of electronic payments made in order to take part in the auction by persons that have not resulted in the winning bid.

The return of electronic payments made in order to take part in the auction by persons that have not resulted in the winning bid shall not be completed until the full price of the winning bid has been received, if this was requested by the bidders.

If the winning bidder does not fulfil their obligation to pay the difference in price between the amount already paid and the balance, the second or next highest bidder who requested that their payment be reserved shall become the winner. The non-compliant bidder shall forfeit their payment, which shall be paid to the destination established in the Law of Civil Procedure.

However, the sale or award to the winner shall be suspended until the established period has transpired for the exercise, when relevant, of shareholders' or, when relevant, the company' right to preferential acquisition.

4. In all circumstances in which the law requires notarised documentation as evidence of the validity or efficacy of the transfer, once the good or right has been auctioned, the holder or their proxy shall grant public deeds of sale before the notary in favour of the winning bidder, at the point when the latter completes their full payment. Should the holder or their proxy refuse to grant deeds of sale, the auction certification shall be sufficient documentation to request the competent court to issue a corresponding order, having issued a statement of intent in the terms set forth in article 708 of the Law on Civil Procedure.

In all other circumstances the authorised copy of the certification shall serve as title for the purchaser.

Article 76.

1. A notarial auction that effects a sale by force may only be suspended and, when relevant, the proceedings be closed, based on the following causes:

- a) When the notary is presented with a judicial decision, even if it is not final, justifying the non-existence or termination of the securitised obligation and, in the case of registered goods or credits, certification from the corresponding register proving that

the encumbrance is cancelled, or a public deed containing a letter of payment or amendment to the ownership status or encumbrances of a property.

The executor must explicitly consent to its continuation despite the registration amendments regarding the status of the encumbrances.

When dealing with stocks, shares, or general company holdings, certification, with legitimate notarised signature of the non-executive administrator or secretary of the company, accrediting the cancellation of the right in rem or embargo on the company rights.

b) When documentary evidence accredits the existence of criminal case that may determine the falsity of the ownership from which it derives, the invalidity or unlawfulness of proceeding with the sale. The suspension shall last until the proceedings conclude.

c) If the debtor's declaration of insolvency is justified to the notary or the cessation of the acts of enforcement in the circumstances set forth in the insolvency legislation, even if they were already published in the announcements for the auction of the asset. In this case suspension shall only be lifted when, through accredited testimony of the insolvency Judge's decision, that the goods or rights are not affected, or are not necessary for the continuation of the professional or business activities of the debtor. It shall also be lifted, when relevant, when judicial decision is submitted that approves the agreement reached, or the public deed or the certification that closed proceedings, together with communication with the competent Judge and the public insolvency register.

d) If a third party claim for ownership is placed, duly accompanied by property title, prior to the date of ownership title on which the auction is based. The suspension shall last until the third party dispute is resolved.

e) If it is accredited that auction proceedings have already begun on the same goods or rights. Since it is notarial this accreditation shall be completed by authorised copy or notification from the information technology systems of the General Council of Notaries. These proceedings may be indicated to the corresponding court, at the discretion of the notary.

2. In the previous cases, if the cause for suspension only affects part of the goods or rights included in the extrajudicial sale, the proceedings

may continue for the remaining items, if the creditor or promoter of the proceedings requests as such.

3. In the case of loans or personal credit or any other mortgage or non-mortgage financial instrument, without prejudice to the stipulations of its special regulations, the extrajudicial sale shall be suspended when it is submitted to the competent Judge that any of the clauses that constitutes the basis for the extrajudicial sale or on which the due amount was determined, is of an abusive or non-transparent nature. Once the question has been resolved, and assuming that, in accordance with the corresponding judicial decision, the clause that constitutes the basis for the extrajudicial sale or on which the due amount was determined is not regarded as abusive or non-transparent, the notary may proceed with the extrajudicial sale at the request of the creditor or promoter of the same.

4. The suspension of the auction for a period of more than 15 days shall effect the release of any payments and return of guarantees paid, returning to the situation immediately before the publication of the announcement. The renewal of the auction shall be completed via a new publication of the announcement and a new request for registration information, as if it were a new auction.

5. When dealing with registered goods if the creditor's claim and the start of the extrajudicial sale were based on any cause that is not the expiration of the deadline or lack of payment of interest or any other payment to which the debtor was obliged, said proceedings shall be suspended, as long as prior to the auction, opposition to the same was recorded in the land register, via a declarative hearing. To this effect, the Judge, at the same time as ordering provisional precautionary registration of the claim, shall agree to notify the notary of the judgement to delay.

Article 77.

Voluntary auctions may be called under specific conditions, included in the conditions document, which should appear in the auctions portal. For this, in the conditions document, the applicant, may increase, decrease or remove the prior payment and take any other payment similar to that indicated.

For everything else, the general rules contained in this present chapter shall be applied, without limiting that set forth in section 3 of article 74.

CHAPTER VI
ON COMMERCIAL MATERIAL PROCEEDINGS

**1st Section. On robbery, theft, loss or destruction
of asset titles**

Article 78.

1. Legitimate possessors of any titles who may have been dispossessed of the same or who have suffered their destruction or loss shall be authorised to request from the notary, the adoption of the measures set forth in commercial legislation, in the event of robbery, theft, loss, or destruction of asset titles or share representation.

2. The competent authority for said proceedings shall be the notary from the place of payment when dealing with an amount receivable; the place of deposit in the case of a security deposit; or in the place of residence of the issuing entity should the assets be for transferable securities, as appropriate.

3. After having accepted the certificate of authenticity and previously examined the same, the notary shall certify the identity and capacity of the requester and their authority to request it, and shall communicate the same, as required, to the issuer of the titles and if it is a listed asset, to the governing body of the Madrid stock exchange, and shall request publication in the corresponding section of the “Official National Gazette” and a newspaper with a large circulation in the district. In both the request and the announcements, any person who may be interested in the proceedings shall be summoned to appear before the notary one the time and date indicated.

4. If said persons appear, the notary shall open a record to certificate their appearance and, in accordance with the request, shall request that the instigator of the proceedings and the issuer of the titles do not proceed with their negotiation or sale, and shall also suspend completion of the obligation to pay documented in the title or payment of any capital, interest or dividends or for the deposit of any merchandise, while attention is given to the title with which it is concerned.

5. Without prejudice to the provisions of the preceding section, in the case of a security representing goods, it shall not be appropriate to deposit the goods if they are impossible, difficult or very expensive to keep or run the risk of serious deterioration or significantly decreasing in value. In this case, the notary shall request the carrier or the

depository, after prior audience with the title holder, to deliver the merchandise to the applicant, as long as the latter proceeds with sufficient caution regarding the value of the deposited goods and any eventual compensation for damages to the title holder if it is later proven that the applicant had no rights to the delivery.

6. At the request of the applicant, the notary may nominate an administrator for the exercise of their right to assistance and to vote at general meetings and special shareholder meetings corresponding to title holders with variable assets, such as for contesting company agreements. The applicant shall be responsible for paying the appointed individual.

7. Once a period of six months has transpired without there having been any resulting conflict, the notary shall authorise the person who instigated the proceedings to apply any yields produced by the title and require, at their request, that the issuer proceed with their payment.

8. Once a period of one year has passed without any opposition being recorded, the notary shall require the issuer to issue new titles, which shall be submitted to the applicant.

9. In no event shall it be legitimate to cancel the security or securities, if the current holder lodges an objection and acquired them in good faith in accordance with the law on the circulation of that security.

10. Where it is not legitimate to cancel the security or securities, the individual who was the legitimate holder at the time when possession was lost shall be entitled to bring the relevant civil or criminal actions against anyone who acquired possession of the document in bad faith.

2nd Section. On deposits of commercial material and the sale of deposited goods

Article 79.

1. In all cases where, through legal provision or agreement, moveable goods, securities or commercial effects be deposited, said deposit may be made before the notary, by way of a deposit certification, in accordance with that set forth in this present law and the regulations for its enforcement.

2. If the deposit consists of bills of exchange or other effects that may be prejudiced should they not be submitted by certain dates for acceptance or for payment, the notary, at the request of the person making the deposit, may proceed to complete said submission. In the

event of the amount being fulfilled, the deposit of the effects shall be replaced by its monetary value.

3. In all cases where, due to commercial legislation, the sale of deposited goods or effects is permitted, the notary, at the request of the person making the deposit or of the depository entity itself, may announce the sale and proceed to sell the goods. To this effect, notarial certificates of auction shall proceed in accordance with the stipulations of this law and the amount obtained shall be given to whichever destination be established by commercial law.

3rd Section. On the appointment of experts on insurance contracts

Article 80.

1. Procedures regulated in this article shall apply when, in the insurance contract, in accordance with specific legislation, there is no agreement between the insurance company's named experts and the insured party determining the damage produced and that they are not in agreement regarding the appointment of a third party.

2. The jurisdiction to proceed to appoint one shall fall to the notary approached by mutual agreement, by the insurance company and insured party. In the absence of an agreement, it shall be any notary who is located in the district of the address or habitual residence of the insured party or the location of the insured object, as chosen by the applicant. They may also choose a notary from a district adjoining any of the previous districts.

3. Either party from the insurance contract or both jointly may request these proceedings.

4. Proceedings shall be instigated in writing, submitted by either of the interested parties, in which they shall indicate the disagreement between the named experts on the damages suffered and shall request the appointment of a third party expert. The document shall be accompanied by the insurance policy and the loss adjusters' reports.

5. Once the application has been accepted by the notary, the notary shall call a hearing so that the interested parties may agree on the appointment of another expert; if there is no agreement, the notary shall proceed to appoint one, in accordance with that set forth in article 50.

6. Once the appointment has been verified, the expert must indicate whether they accept the role or not, for which they must demonstrate

just cause. Once accepted, formal appointment shall take place and each party must provide the funds considered necessary, within three days. The expert must issue their opinion within the period established by the parties and, in the absence of this, within a period of thirty days from their acceptance of their appointment. Once the opinion has been issued, it shall be incorporated into the certification and proceedings closed.

CHAPTER VII ON SETTLEMENT PROCEEDINGS

Article 81.

1. Settlement of different interests may be completed before a notary, for the purpose of reaching an extrajudicial agreement.

2. A settlement may be completed regarding any contractual, commercial, successorial or family conflict, as long as it is not regarding restricted material.

The issues set forth in the Commercial Law may not be settled using this procedure.

The following are restricted:

- a) Issues in which the interested parties are minors or legally incapacitated persons, regarding the free administration of their goods.
- b) Issues in which the interested parties are the state, autonomous region or other public administrations, corporations or institutions of a similar nature.
- c) Hearings regarding civil liability against Judges or Magistrates.
- d) In general, agreements regarding material not applicable for transactions or agreements.

Article 82.

1. The public deeds formalising the compromise between the interested parties or, when relevant, the fact that no compromise was reached, shall be subject to the authorisation requirements established in notarial legislation.

2. If an agreement has been reached between the interested parties regarding all or part of the settlement, detailed record shall be recorded in the public deed regarding the agreement and that the proceedings

concluded in the compromise, as well as the conditions of the same. Where it is not possible to reach any agreement whatsoever, a record shall be made that the hearing ended without agreement.

3. Amendment to the agreed pact must also be recorded in notarial public deed, as long as no judicial enforcement has been instigated.

Article 83.

1. The notarial public deed formalising the compromise shall enjoy the same effects as a public instrument and in particular, shall be endowed the executive effects in terms of the 9th point of section 2 of article 517 of the Law on Civil Proceedings. Enforcement shall be verified in accordance with the stipulations for extrajudicial executive titles.

2. Any of the parties may request the notary for an authorised, endowed, executive copy, as long as there is no note on the master copy regarding the amendment of its contents or enforcement.

Two. An additional provision is introduced, with the following wording:

«First additional provision. References to the Civil Code.

References made in this Law to the Civil Code must be understood to also refer to any special or provincial civil laws that may exist.»

Twelfth final provision. *Amendment to the Mortgage Law.*

One. The first paragraph of article 14 is edited as follows:

«The title of hereditary succession, for the purposes of registration, means the will and testament, successorial contract, act of certification for the declaration of intestate successor, administrative statement of intestate successor in favour of the state and, when relevant, European last will certificate.»

Two. A new Title IV bis is included, which is edited as follows:

«TITLE IV BIS
ON CONCILIATION.

Article 103 a.

1. Registrars shall be competent to recognise settlement proceedings regarding any conflict about fixed assets, urban or commercial issues, or proceedings registrable on the land register, commercial register or any other public register under their jurisdiction, as long as it is not

regarding restricted material, for the purpose of reaching an extrajudicial agreement. Settlement of these conflicts may also be held, according to the choice of the interested parties, before a notary or clerk of the court.

The issues set forth in the Commercial Law may not be settled using this procedure.

2. Once the settlement proceedings have taken place, the registrar shall certify the compromise or, when relevant, the fact that no compromise was reached.»

Thirteenth final provision. *Amendment to the Law of 16 December 1954, on Chattel Mortgage and pledge without transfer of possession.*

One. The second Section of Chapter I of Title V now reads as follows:

«Second section. Extrajudicial sale»

Two. Article 86 is edited in the following manner:

«**Article 86.**

In order that the extrajudicial sale procedure be applicable, the following shall be necessary:

1st. That in the mortgage deed, the debtor or when relevant, the non-debtor mortgage provider, appoints a representative to represent them, as appropriate, in the sale of the mortgaged goods. This representative may be the creditor themselves.

2nd. That in the same way, the price at which the interested parties value the goods be recorded. The type of auction agreed may not be different to the one fixed, when relevant, for legal proceedings.

3rd. That the debtor or when relevant, the non-debtor mortgage provider fixes an address for delivery of requirements and notifications. They may also designate an E-mail address, in which case any requirements or notifications made shall also be sent in this format.

Regarding anything not specifically regulated in this law, the regulations on electronic auctions contained in the procedural legislation shall be applied supplementary to forced extrajudicial sales arising from chattel mortgage and pledge without transfer of possession.»

Three. Article 87 is edited in the following manner:

«Article 87.

Extrajudicial proceedings shall be adjusted as necessary to the following rules:

1st. They may only be heard before a notary competent to act in the district where the mortgaged goods are located, or in a district bordering the same.

2nd. They shall be instigated by request addressed by the creditor to the notary, who, after prior fulfilment of the requirements of this article, shall proceed to the sale of the goods in a public auction.

In the request, the creditor must indicate the exact quantity subject to the claim, by principal and interest and the cause of the maturity, submitting to the notary their certificate or certificates of credit, together with all the requirements demanded by the Law of Civil Procedures, in order that they effect an executive nature.

The request must be recorded in the proceedings.

3rd. At the request of the creditor, the notary shall require payment from the debtor and, when relevant, the non-debtor mortgage provider or third party holder, with an indication of the cause of maturity and the total amount claimed, and shall advise that if the payment is not made, they shall proceed to sale of the mortgaged goods, without the need for further notifications or requirements.

The required parties, within five days of receiving the request, must pay or hand over material possession of the mortgaged goods to the creditor or representative designated in the mortgage deeds.

Should the debtor fail to fulfil their obligation to hand over possession of the goods, the notary shall not continue with the sale proceedings, if requested as such by the creditor, who may also, in order to achieve their credit, make use of any legal proceedings, without prejudice to the option of exercising any appropriate civil or criminal proceedings.

4th. At the request of the creditor, to accompany the requirement to pay, the registrar shall issue a full copy certificate of the mortgage, in which it is duly declared that it remains in force and has not been cancelled or, when relevant, if there are any cancellations or amendments recorded on the register and shall be linked to any previous records of the same.

The registrar shall record on the margin of the mortgage registration, that they have issued aforementioned certificate, noting the date, start of proceedings and the notary before whom it is held.

When the register certification shows a previous record on the mortgage registration, the debtor and holder shall be notified of the existence of said proceedings so that, when appropriate, they may intervene in the auction or complete the payment of credit, interest or costs before the sale. In the latter case, the creditors shall be subrogated to the actor's rights and the payment and their subrogation shall be recorded in the margin of the mortgage registration on which the creditors are subrogated and on respective records, by way of submission to the register of the notarial proceedings regarding submission of the due amounts or the judicial order, as appropriate.

5th. Once five days have transpired since the request, it shall proceed to sale, which shall be announced in the "Official National Gazette". The auction shall be held electronically and shall take place in the auctions portal of the state agency Official National Gazette. The auction shall accept bids for a minimum period of twenty calendar days from its start and shall not close until one hour has passed from the completion of the last bid, although this means the initial period of twenty days to which this article refers may be extended by a maximum of 24 hours.

6th. Recovery of the value of the good shall be completed via a single auction for which the appraisal value established in the mortgage deeds shall be used. However, if bids for an amount equal to or higher than 70 percent of the value at which it would have been auctioned, the property shall be considered awarded to whoever submitted the highest bid.

If the highest bid submitted is lower than 70 percent of the value indicated for auction, the debtor may, within a time limit of ten days, present a third party improving the bid by offering an amount equal to or in excess of 70 percent of the appraisal value or that, albeit lower than the said amount, proves to be sufficient for the complete satisfaction of the right of the creditor.

If the indicated period transpires without the debtor or registered holder of the goods fulfilling that set forth in the previous paragraph, the creditor may request, within a period of five days, that the good or goods be awarded for 70 percent of the value expected at

auction, or for the amount owed for each concept, as long as said amount is higher than 60 percent of the appraisal value and is that of the highest bidder.

If the creditor does not make use of the aforementioned facility, the good shall be understood to have been sold to whomever submitted the highest bid, as long as the amount offered was higher than 50 percent of the appraisal value or, if it is less, that it at least covers the amount claimed for all concepts.

If there are no bidders at the auction, the creditor, within a period of ten days, may request that the goods be awarded for an amount equal or greater than 50 per cent of their appraisal value or for the amount owed to them for all concepts.

7th. The enforcing creditor may attend the auction as a bidder, as long as there are other bidders, without the need to pay any bid amount in advance. In order to participate in the auction, all other bidders must deposit 5 percent of the appraisal value. The payment may be made with consent to reserve the amount for the effects of the following rule.

8th. Once the auction is concluded with award to the highest bidder, said bidder must, within one day, pay the notary the difference between their prior deposit and the price of the awarded goods and the deposits paid by all other bidders shall be returned. If the winner does not pay this amount, the goods shall be awarded to the next highest bidder who consented to their reserve payment being kept for such a purpose. Payments by any bidders who do not proceed to pay the difference, shall be used to pay the costs of proceedings and the excess, should there be any, shall pay any liabilities and interest.

If the winner is the creditor themselves, they must pay the difference between the amount claimed and the price of the awarded goods. Should they not do so, they shall be responsible for the costs of the auction and any further proceedings that might be necessary.

9th. Once all procedural costs are satisfied, the amount obtained at auction shall be designated for payment of the liability and any interest.

Any excess shall be submitted by the notary, to the mortgage provider or third party holder, if there are no other persons who have liens on it or who have submitted legal claim. If such person does exist, the excess shall be deposited at their disposal in a public establishment designed for such effect.

10th. The award of the goods shall be recorded in public deeds granted by the winner and the debtor, or the non-debtor mortgage holder or third party holder, as applicable, or the successor in title and, should these persons not appear, it shall be granted in the name of the representative designated for said purpose.

In said public deeds, the proceedings observed shall be recorded, the price of the award, its payment by the winning bidder, payment made to the creditor and the destination of the excess, if there were any.

If the winning bidder was the same creditor and there was also a designated representative, the public deed may be granted in this dual sense, also recording the aforementioned.

The public deed of award shall be sufficient title to accredit ownership of the goods and to cancel the mortgage and subsequent proceedings, if payment has been made to the creditor and the excess, if there was any, has been designated.

If the bidder was joint owner or third party holder of the auctioned goods, once the amount of the sale has been paid, the notary shall limit the award to the other undivided interests they execute or, without verifying it, shall declare the procedure closed, as appropriate. When no award has taken place, a copy of the auction proceedings certification shall be sufficient title to accredit ownership of the goods and to cancel the mortgage and subsequent proceedings, if payment has been made to the creditor and the excess, if there was any, has been designated.

11th. If the auction is declared cancelled and the creditor does not request award, the proceedings shall be declared concluded without effect and the right shall remain open for whoever wishes to exercise it in any corresponding legal proceedings.

If the price of the sold goods was insufficient to pay the full debt to the creditor, the latter shall preserve their right to the difference.

12th. The procedural steps, with the exception of the deed of award of the goods, shall be recorded in the legal measures as part of the certificate of instigation to which the second rule refers.

This certificate shall be incorporated into the protocol on the date of the last legal measure performed. Once the public deed of award has been granted, it shall be recorded as a note in said certification.

13th. The award of the goods shall be put into the possession of the same, by the person who had them, in accordance with the third rule. If they are not handed over, legal possession of the same may be requested, in accordance with the Law on Civil Procedure, without prejudice to the civil or criminal sanctions that may be exercised against whoever has unjustly refused the handover.»

Four. Article 88 is edited in the following manner:

«**Article 88.**

Proceedings for extrajudicial sale may only be suspended for any of the following causes:

First. If registered certification is submitted, accrediting that the mortgage is cancelled or public deed of letter of payment or cancellation of the same.

Second. When documentary evidence accredits the existence of criminal case regarding any act that may appear criminal, which determines the falsity of the ownership from which it derives, the invalidity or unlawfulness of proceeding with the sale.

Three. If the notary is presented with the debtor's declaration of insolvency, even if the announcements for auction of the goods has been made. In this case suspension shall only be lifted when, through accredited testimony of the insolvency Judge's decision, that the goods or rights are not affected, or are not necessary for the continuation of the professional or business activities of the debtor.

Fourth. If a third party claim for ownership is placed, duly accompanied by property title, prior to the date of the mortgage deed.. If it is regarding goods that must be registered on any register, said title must also be registered with a date prior to that of the mortgage. The suspension shall last until the closure of the arbitration hearing.»

Five. If it is accredited, with the corresponding register certification, that the same goods are subject to another variable mortgage or mortgage effects, in virtue of article 111 of the Mortgage Law, in force or registered before the proceedings were instigated. These

proceedings shall be made known to the corresponding Court, for the effects set forth in article 1862 of the Civil Code.

In the two previous cases, if the cause for suspension only affects part of the goods included in the mortgage, the proceedings may continue for the remaining items, if the creditor or promoter of the proceedings requests as such.

The extrajudicial sale shall also be suspended when any of the parties proves having submitted before the competent Judge, the abusive nature of any of the contractual clauses of the mortgage loan that constitutes the basis for the extrajudicial sale or that determines the basis of the due amount. Once the question has been resolved, and assuming that, in accordance with the corresponding judicial decision, the clause that constitutes the basis for the extrajudicial sale or on which the due amount was determined is not regarded as abusive or non-transparent, the notary may proceed with the extrajudicial sale at the request of the creditor or requester of the same.

Once any of the circumstances set forth in sections 1 and 2 is verified, the notary shall agree to the suspension of proceedings until, the criminal proceedings or registration process, respectively, have concluded, if the mortgage is not declared false or the cancellation of the same has not been registered.

The suspension of the auction for a period of more than 15 days shall effect the release of any payments and return of guarantees paid, returning to the situation immediately before the publication of the announcement. The renewal of the auction shall be completed via a new publication of the announcement and a new request for registration information, as if it were a new auction.

If the creditor's claim and the start of the extrajudicial sale were based on any cause that is not the expiration of the deadline or lack of payment of interest or any other payment to which the debtor was obliged, said proceedings shall be suspended, as long as prior to the auction, opposition to the same was recorded in the register, via a declarative hearing. To this effect, the Judge, at the same time as ordering provisional precautionary registration of the claim, shall agree to notify the notary of the judgement to delay.»

Five. The first paragraph of article 89 is edited in the following manner:

«For the mortgage of commercial establishments, in addition to the rules established previously, the following shall be observed:»

Fourteenth final provision. *Amendment to the consolidated text of the Capital Companies Law, approved by Royal Legislative Decree 1/2010, of 2 July.*

One. Sections 3 and 4 of article 139 and section 2 of article 141 are edited in the following manner:

«Article 139.

3. In the event that the company does not reduce the share capital within the two months following the end date of the alienation deadline, any interested party may request a reduction in capital, from the relevant clerk of the commercial court or Registrar of Companies from the area where the company is registered. When the general meeting agreement is contrary to this reduction or it cannot be achieved, the directors shall be bound to request a court or registrar ruling for said reduction in share capital.

The proceedings before the clerk of the court shall be performed in compliance with the provisions of the Law on Voluntary Jurisdiction. The application to the registrar shall be processed in agreement with the provisions of Companies Register regulations.

The favourable or unfavourable decision shall be open to challenge before the commercial court judge.

4. The stakes and shares in the parent company shall be alienated at the behest of the interested party, by the clerk of the commercial court or the registrar of companies, in accordance with the procedure for such in the Law on Non-Contentious Proceedings and the Companies Register regulations.»

«Article 141.

2. If the shares were not alienated within the aforementioned deadline, the company must immediately agree their amortisation and capital reduction. If the company fails to take these measures, any interested party may request their adoption through the clerk of commercial court or the registrar of companies in the company's registered area. Directors of the purchasing company shall be bound to request the adoption of these measures when, through whatever circumstances, no corresponding agreement on amortisation and capital reduction can be made.

The proceedings through the clerk of the commercial court shall comply with the procedures of voluntary jurisdiction. The application to

the registrar shall be processed in agreement with the provisions of Companies Register regulations.

The favourable or unfavourable decision may be challenged before the commercial court judge.»

Two. Articles 169, 170 and 171 are edited in the following manner:

«Article 169. Jurisdiction to convene meetings.

1. If the ordinary general meeting or general meetings provided for in the by-laws are not convened within the period stipulated in the laws or by-laws, they may be convened at the application of any partner, through the clerk of the commercial court or registrar of companies where the registered office is located, who shall hear the directors prior to passing judgement.

2. If the directors fail to attend in time to the minority application to convene a general meeting, the meeting may be convened by the clerk of the commercial court or the companies registrar where the registered office is located, who shall hear the directors prior to passing judgement.

Article 170. System for convening meetings.

1. The clerk of the commercial court shall proceed to convene the general meeting in accordance with the provisions of the voluntary jurisdiction legislation.

2. The registrar of companies shall proceed to convene the general meeting within one month of the application having been filed, indicating the place, day, time and agenda of the meeting and shall nominate the chairperson and secretary of said meeting.

3. There shall be no recourse to appeal any resolution through which a meeting was convened.

4. Expenses incurred when convening meetings through the court shall be borne by the company..

Article 171. Convening meetings under special circumstances.

In the event of the death or dismissal of the sole director, all of the joint and several directors, one of the joint directors or the majority of the members of the board of directors, and in the absence of alternates, any partner may request the clerk of the commercial court or the registrar of companies in the registered office's location, to convene a general meeting in order to appoint new directors.

Furthermore, any of the directors remaining in office may convene the general meeting for that sole purpose.»

Three. Articles 265 and 266 are edited in the following manner:

«Article 265. Jurisdiction to appoint an auditor.

1. When the general meeting has not appointed an auditor before the end of the financial year to be audited, being bound to do so, or the appointee fails to accept the role or cannot perform their duties, the directors and any partner may request the clerk of the commercial court or the registrar of companies in the location of the registered offices, to appoint the person or persons to complete the audit.

In joint stock companies, the application may also be filed by the trustee of the bondholders' syndicate.

2. In companies that are not bound to submit their annual financial statements for verification by an auditor, shareholders representing at least five percent of the share capital may request the clerk of the commercial court or the registrar of companies in the location of the registered offices that, at the company's expense, they appoint an auditor to audit the financial statements for a specific financial year, assuming that no more than three months have passed since the close of aforementioned year.

3. The application to the registrar shall be processed in agreement with the provisions of Companies Register regulations.

If the appointments are made through the clerk of the commercial court, the procedures shall comply with the provisions of the voluntary jurisdiction legislation.

4. If the appointment is agreed or rejected through the registrar of companies, it shall be open to challenge, in accordance with the provisions of the Companies Register regulations. The resolution by the clerk of the commercial court shall be open to challenge before the commercial court judge.

Article 266. Withdrawal of the auditor.

1. When just cause exists, the company directors and persons authorised to request the appointment of an auditor, may request from the clerk of the commercial court or the registrar of companies, the revocation of whomever has been appointed by them or the general meeting and request the appointment of another.

2. The application to the registrar shall be processed in agreement with the provisions of Companies Register regulations.

If the revocation is made through the clerk of the commercial court, the procedures shall comply with the provisions of the voluntary jurisdiction legislation.

3. The resolution passed on the revocation of the auditor shall be open to challenge before the commercial court judge.»

Four. Articles 377 and 380 are edited in the following manner:

«Article 377. Filling vacancies.

1. In the event of the death or dismissal of the sole liquidator, all joint and several liquidators, any of the liquidators acting jointly or the majority of liquidators acting collegiately and in the absence of alternates, any partner or party with a legitimate interest may apply to the clerk of the commercial court or the registrar of companies in the location of the registered offices, to convene the general meeting for the appointment of liquidators. Furthermore, any of the liquidators remaining in office may convene the general meeting for that sole purpose.

2. When the meeting convened pursuant to the previous paragraph fails to appoint liquidators, any interested party may request the clerk of the commercial court or the registrar of companies in the location of the registered offices, to appoint them.

3. The application to the registrar shall be processed in agreement with the provisions of Companies Register regulations. The petition to the clerk of the commercial court shall comply with the procedures established in the voluntary jurisdiction legislation.

4. The resolution by which the appointment is agreed or rejected shall be open to challenge before the commercial court judge.»

«Article 380. Dismissal of liquidators.

1. The dismissal of liquidators appointed by the general meeting may be agreed by the same, even when it does not appear on the agenda items. If the liquidators were designated in the company by-laws, the agreement must be adopted pursuant to the requirements of majority vote and, in the case of joint stock companies, the quorum, established for the amendment of the by-laws .

Joint stock company liquidators may also be dismissed by the decision of the clerk of the commercial court or the registrar of companies in the

location of the registered offices, for just cause, at the behest of shareholders representing one twentieth of the share capital.

2. Dismissal of the liquidators appointed by the clerk of the commercial court or the registrar of companies may only be decided by the court who appointed them, at the duly reasoned request of anyone substantiating a legitimate interest.

3. The resolution passed on auditors' dismissal shall be open to challenge before the commercial court judge.»

Five. Articles 381 and 389 are edited in the following manner:

«Article 381. Controllers.

1. In the event of joint stock companies' liquidation, shareholders representing one twentieth of the share capital may apply to the clerk of the commercial court or the registrar of companies in the location of the registered offices for designation of a controller to supervise the liquidation operations.

If the company has issued bonds that are in circulation, the bondholders' syndicate may also appoint a controller.

2. The application to the registrar shall be processed in agreement with the provisions of Companies Register regulations. The petition to the clerk of the commercial court shall comply with the procedures established in the voluntary jurisdiction legislation.

3. The resolution by which the appointment is agreed or rejected shall be open to challenge before the commercial court judge.»

«Article 389. Replacement of liquidators for excessively long liquidation proceedings.

1. If, three years after the institution of liquidation proceedings, the final liquidation balance sheet has not been submitted to the general meeting for approval, any partner or person with legitimate interest may request the clerk of the commercial court or the registrar of companies in the location of the registered offices, for dismissal of the liquidators.

2. The clerk of the commercial court or the registrar of companies, after hearing the liquidators, shall agree the dismissal, as long as there be no sufficient cause justifying the delay and shall appoint the person or persons they deem suitable and determine their terms of reference.

3. The resolution passed on the revocation of the auditor shall be open to challenge before the commercial court judge.»

Six. Article 422 is edited in the following manner:

«Article 422. Power and obligation to convene the assembly.

1. The general assembly of bondholders may be convened by the company directors or by the trustee. The trustee must also convene the assembly whenever so requested by the bondholders representing at least one twentieth of the issued and unamortised bonds.

2. The trustee may require the presence of the company directors, who may attend even if not called to convene.

3. If the trustee does not respond in time to the application to convene the assembly by the bondholders, as referred to in section 1, after hearing the trustee, the clerk of the commercial court or the registrar of companies in the location of the registered offices may convene said assembly.

The clerk of the commercial court shall proceed to convene the bondholders' assembly in accordance with the provisions of the voluntary jurisdiction legislation.

The companies registrar shall proceed to convene the general assembly pursuant to the Companies Register regulations.

There shall be no recourse whatsoever to appeal the decree or resolution under which it is agreed to convene the bondholders' general assembly.»

Seven. Section 2 of article 492 now reads as follows:

«2. Should the meetings not be convened within the periods established in Regulation (EC) no. 2157/2001 or the by-laws, they may be convened by the supervisory board or, at the behest of any partner, by the registrar of companies in the location of the registered offices, pursuant to the provisions for general meetings in this law.»

Fifteenth final provision. *Amendment to Law 211/1964, of 24 December, on regulating securities issues by companies who have not adopted the format of Corporation or Association, or other corporate entities and the constitution of a Bondholders Syndicate.*

The sixth article is edited in the following manner:

«Sixth article.

Companies who have not adopted the format of Corporation or Association, or corporate entities who issue bonds of any type, must form a Bondholders Syndicate and nominate a Trustee, who shall attend to grant the deeds of issue on behalf of the future holders of the bonds.

If the issuing entities do not form the Bondholders Syndicate referred to in the previous paragraph, any bondholders representing at least thirty percent of the total series or issue, after prior deduction of any amortisations completed by request before the commercial registrar from the residential district of the issuing entity, may themselves take the initiative and request the formation of said syndicate, in accordance with that set forth in the regulations on the Companies Register. The issuing entity and the trustee nominated in the deeds of issue must be called to the assembly in which these decisions are made.»

Sixteenth Final Provision. *Amendment to the single temporary provision of Law 33/2006, of 30 October, on the equality of men and women in the order of succession of noble titles.*

Section 3 of the single temporary provision is edited as follows:

«3. Notwithstanding that set forth in section 1 of this temporary provision, the present Law shall be applied to all proceedings relating to Spanish nobility and noble titles that on 27 July 2005, were pending administrative or legal resolution, either in court or in appeal channels, as well as any proceedings that had been instigated between that date, when the original proposition of the Law was presented in parliament, and 20 November 2006, when this present Law came into force. The administrative or judicial authority before whom the proceedings or process are pending, shall agree, ex officio, to process the appearing parties' claims on their rights in accordance with the new law, within the general period of five days.»

Seventeenth final provision. *Amendment to the consolidated text of the General Consumer and User Protection Act and other complementary laws, approved by the Royal Legislative Decree 1/2007, of 16 November.*

One. Section 2 of article 19 is edited as follows:

«2. Without prejudice to the provisions of the following paragraphs, for the protection of the legitimate economic and social interests of consumers and users, the commercial practices of entrepreneurs

directed at these groups are subject to the provisions of this law, the Law on Unfair Competition and the Law on the Regulation of the Retail Trade. For these purposes, business-to-consumer and user commercial practices are considered to be all commercial acts, omission, conduct, manifestations or communications, including advertising and marketing, directly relating to the promotion, sale or supply of goods or services, including fixed goods such as rights and obligations, irrespective of whether these take place before, during or after a commercial transaction.

Contractual relations are not considered commercial practices and are governed in accordance with the provisions of Article 59.»

Two. Point a) of article 141 is edited as follows:

«a) A release of 500.00 Euros shall be deducted from the amount of compensation for damage to property.»

Three. Article 163 is edited as follows:

«Article 163. Guarantee of contractual liability.

1. Organisers and schedulers of package holidays shall be obliged to constitute and permanently maintain a guarantee, in the terms determined by the competent tourist administration in order to comply generally with the obligations arising from the provision of their services to contractors of package holidays and in particular, in the event of insolvency, of effective reimbursement of all payments made by travellers for any concepts for which they have not provided the corresponding services and, in the event that they include transport, effective repatriation from the same. Requirement for this guarantee is subject in all circumstances, to the stipulations of Law 20/2013, of 9 December, on guaranteeing market unity.

2. As soon as it becomes evident that the fulfilment of a package trip shall be affected by a lack of funds from the organisers or schedulers, to the point where the trip is not made or is partially made, or the service providers require the passengers to pay for them, the traveller may easily access the guaranteed protection, without excessive procedures, without undue delay and with no financial charge.

3. In the event that the guarantee is used, it must be repaid within a fifteen-day period, until its original total is covered again.»

Eighteenth final provision. *Amendment to Law 10/2012, of 20 November, regulating certain fees in the field of Administration of Justice and the National Institute of Toxicology and Forensic Science.*

Point e) of section 1 of article 4 is edited as follows:

«e) The submission of a claim for fulfilment of arbitration awards by the Spanish Consumer Arbitration Courts and the Transportation Arbitration Courts; in the latter case, when the amount for which fulfilment is being sought is less than 2,000 Euros, and the notarial proceedings for claiming financial debts do not conflict.»

Nineteenth final provision. *Gratuity of certain notarial and registration proceedings.*

1. The provision of services set forth in the regulation of pro bono legal aid shall be recognised, relating to the reduction in notarial and registration fees, the free cost of publications and, when relevant, the intervention of experts, on the following proceedings:

a) In the matter of succession: On the declaration of intestate successor; on the submission, attestation, opening, reading and legalisation of wills and the creation of an inventory, in the Law of 28 May 1862, on Notaries.

b) In the matter of rights in rem: On the survey and demarcation of registered properties; on ownership for the listing of properties not registered on any person's behalf; on reinstating an interrupted proceeding; on the correction of double or multiple registrations and registered release from liens and encumbrances of the Mortgage Law, through prescription, expiration or lack of use.

2. Accreditation of the requirements for recognising the right to the services indicated in the previous section shall take place in accordance with the stipulations of the Law on Pro Bono Legal Aid, before the corresponding Notaries Society or register, which shall have the facilities set forth in said law to verify the accuracy and veracity of the financial information provided by the applicants.

When the recognition of a right to the assistance of a barrister is requested, in cases of separation or divorce before a notary, accreditation shall be performed in the same manner as set forth by the Law on Pro Bono Legal Aid.

Twentieth final provision. Jurisdiction.

This present law sets the scope for jurisdiction that, regarding procedural legislation, corresponds to the state, in accordance with article 149.1.6. of the constitution.

Exempt from the aforementioned, are the first, fourth, fifth, sixth, seventh, eighth, tenth, fourteenth and eighteenth final provisions, which set the scope of jurisdiction regarding civil legislation, corresponding to the state, in accordance with article 149.1.8. of the constitution. In the same way, the fourth additional provision and the eleventh, twelfth and thirteenth final provisions, which set the scope for jurisdiction corresponding to the state on the arrangement of public registers and instruments, in accordance with article 149.1.8 of the constitution. Finally, the second, ninth, fifteenth and sixteenth final provisions, setting the scope of jurisdiction corresponding to the state on commercial legislation, in accordance with article 149.1.6. of the constitution.

Twenty-first final provision. Entry into force.

This present law shall enter into force twenty days from its official publication in the “Official National Gazette”, except:

1. The provisions in Chapter III of Title II of this Law, regulating adoption, which shall enter into force when the Reform Bill on the Protection system for childhood and adolescence enters into force.
2. The provisions in Title VII of this Law, regulating voluntary auctions held by clerks of the court and those of Chapter V of Title VIII of the Law of 28 May 1862, on Notaries, included in the eleventh final provision, establishing the regime for notarial auctions, which shall enter into force on 15 October 2015.
3. The amendments to articles 49, 51, 52, 53, 55, 56, 57, 58, 62, 65 and 73 of the Civil Code contained in the first final provision, as well as the amendments to articles 58, 58 bis, second final provision and fifth bis final provision of Law 20/2011, of 22 July, on Register Offices, included in the fourth final provision relating to the procedures and celebration of civil marriage, which shall enter into force on 30 June 2017.
4. The amendments to article 7 of Law 24/1992, of 10 November, approving the Co-operation Agreement between the State and the Federation of Evangelical Religious Entities of Spain; the amendments to article 7 of

Law 24/1992, of 10 November, approving the Co-operation Agreement between the State and the Federation of Israelite Communities of Spain; and the amendments to article 7 of Law 26/1992, of 10 November, approving the Co-operation Agreement between the State and the Islamic Commission of Spain, contained in the fifth, sixth and seventh final provisions respectively, which shall enter into force on 30 June 2017.

5. The provisions of the 1st Section of Chapter II of Title VII of the Law of 28 May 1862, on Notaries, contained in the eleventh final provision, establishing the regulatory regulations for matrimonial proceedings and the public deeds on the celebration of marriage, which shall enter into force on 30 June 2017.

Therefore,

I hereby order all Spanish citizens, individuals and authorities to observe and enforce this Law.

MAQUETACIÓN

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