Act XXXVIII of 2010
on probate procedure

CHAPTER I

FUNDAMENTAL PROVISIONS

Objective of the Act

Section 1 This Act is aimed at ensuring that an estate passes upon the death of a human being by determining the persons interested as heirs and their legal titles of succession regarding certain assets and parts of the estate.

Application of the rules of the Code of Civil Procedure

Section 2 (1) The probate procedure is a non-contentious civil procedure to which, unless otherwise provided in this Act, the rules of Act CXXX of 2016 on the Code of Civil Procedure (hereinafter the "Pp.") shall apply with the derogations arising from the special features of the non-contentious civil procedure. Unless otherwise provided in this Act, the provisions of Act XLV of 2008 on certain non-contentious notarial procedures (hereinafter the "Kjnp.") shall not apply in the probate procedure.

(2) In the probate procedure, the notary's procedure shall have the same effect as that of the court of first instance.

Material competence

Section 3 (1) With the exception of the procedural acts specified in paragraph (2), the probate procedure shall be conducted by the notary.

(2) If provided so in this Act, certain procedural acts shall fall under the competence of the local government clerk.

Territorial competence

Section 4 (1) The procedure shall be conducted by the notary having territorial competence according to

a) the last domicile in Hungary of the testator,

b) in the absence of a place under point *a),* the last place of residence in Hungary of the testator,

c) in the absence of a place under points *a)* and *b),* the place of death of the testator in Hungary,

d) in the absence of a place specified in points *a)* to *c)*, the location of the estate,

e) in the absence of a place specified in points *a)* to *d),* the designation made by the Hungarian Chamber of Civil Law Notaries upon the request submitted to it by a party interested in the succession.

(2) When establishing territorial competence, the available public deeds containing the data under paragraph (1) *a)* to *c)* or the data in the register subject to the Act on the register of the personal data and residential data of citizens shall be taken into account.

(3) If the notary establishes the lack of his territorial competence, he shall arrange for the transfer of the documents to the competent notary without delay.

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(4) If territorial competence is based on the location of the property, and more than one notary operating at different notarial seats (in the capital: in the district of operation) could proceed, the one chosen by the local government clerk in consideration of the domicile of the parties interested as heirs and the location of the assets shall conduct the procedure.

(5) The notary with territorial competence to conduct the probate procedure shall have exclusive territorial competence to conduct any new procedure relating to the estate of the same testator (supplementary probate procedure, repeated procedure).

(6) The provisions of the Kjnp. shall apply to the disqualification of the competent notary and to the designation of a notary to proceed.

Section 5 (1) Unless provided otherwise in this Act, in the probate procedure the rules on the territorial competence of the notary shall apply accordingly to the territorial competence of the local government clerk, with the proviso that, unless otherwise provided in this Act, the provisions of Act CL of 2016 on the Code of General Administrative Procedure (hereinafter the "Ákr.") shall apply to the disqualification of the local government clerk.

(2) If more than one local government clerk has territorial competence according to the location of the property then the procedure can be launched before any of them; the one before whom the procedure was first launched shall be the competent local government clerk.

Interpretative provisions

Section 6 (1) For the purposes of this Act:

a) distribution of the estate means establishing, in the order adopted by the notary, who is entitled to what right or is bound by what obligation under what legal titles with regard to the estate of property, a part of it or assets of it as a result of the probate procedure;

b) costs of distributing the estate means the costs of a decent funeral for the testator, the necessary costs of acquiring, securing and managing the estate (costs of the estate) and the costs of the probate procedure;

c) taking the estate inventory means obtaining and recording the data, specified by law, of the testator and those interested in the probate procedure, as well as the data on the estate of property and the declarations relating to the above, as specified by law;

d) party interested in the probate procedure means those who

da) are parties interested in the succession,

db) have requested that the probate procedure be conducted on the grounds of their being in possession of a thing that belongs to the estate of the testator,

dc) are the obligors, acting in the probate procedure, of a claim or a right that belongs to the estate of the testator and is passed upon the death to the party interested as heir, and

dd) with regard to a contract of inheritance entered into by co-owners jointly, the co-owner surviving the testator;

e) creditor of the estate means those who

ea) submit a claim in the probate procedure for the payment of the costs of distributing the estate and of the debts of the testator,

eb) raise a claim in the probate procedure under a legal title falling under the scope of the law of obligations regarding an asset that belongs to the estate, alleging that the testator was obliged to transfer the asset to him;

f) inheritance action means an action brought by a party interested in the succession for enforcing his claim, which was disregarded in the estate distribution order with provisional effect and is the subject matter of an inheritance dispute or a secondary inheritance dispute;

g) claimant means a person who presents a claim in the probate procedure for an asset taken into inventory (thing, right, claim) under a legal title alleging that that asset does not belong to the estate of the testator but the claimant himself is entitled to it (as the owner, assignee etc.);

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h) heir upon disqualification means the person who, upon the opening of succession, is not a testate or intestate heir of the testator but if one of the heirs would have been disqualified then he would be an intestate or testate heir of the testator;

i) registered asset means a moveable thing or a right for which the acquisition of ownership or registered right is proved by a record in a publicly certified register kept in Hungary;

j) secondary inheritance dispute means

ja) a dispute raised between the parties interested in succession regarding the legal basis or the amount of the claim of a creditor of the estate, the claim for compulsory share that was requested to be granted other than in kind or of the claim for indirect legacy;

jb) a dispute raised between the executor of the will and a party interested in the succession regarding the tasks, rights and obligations of the executor of the will, as well as the activity of the executor of the will performed in this capacity (acts or failures to act);

k) allocation agreement means a settlement agreement, not considered as a legal transaction *inter vivos,* concluded in the probate procedure by and between the parties interested as heirs, while receiving shares of the estate, and relating only to the estate, in full or in part, to determine the share of heirs in the estate retroactively to the opening of succession;

l) party interested in the succession means the party interested as heir and those who have appeared in the procedure as a creditor of the estate, a claimant or a party entitled to compulsory share and the executor of the will and the administrator of the estate under Regulation (EU) No 650/2012 of the European Parliament and of the Council, and the guardianship authority if applying for a protective measure or legal remedy;

m) inheritance dispute means a dispute raised between the parties interested as heirs in the matter as to who is entitled to the estate and under what legal title, and a dispute raised about a compulsory share requested in kind;

n) party interested as heir means someone who appears in the procedure as an heir, including those to whom the testator left a specific legacy or a gift upon death, as well as the subsequent heir and the subsequent legatee of a specific legacy;

o) subsequent heir means a person who, on the basis of a testamentary arrangement of the testator, replaces the former heir in the inheritance or in a part of it after a specific event or from a specific date.

(2) The rules on the creditor of the estate shall apply to the beneficiary of a testamentary burden or an indirect legacy in the probate procedure.

(3) The impoundment administrator, appointed or designated, the person or organisation carrying out the protective measure, the guardian *ad litem* and the official witness shall act in the probate procedure as contributors (hereinafter "contributor").

(4) If the testator designates in his will an adult having full capacity to act or a legal person to execute the will or a part of it, this person (executor of the will) shall be considered a party interested in the succession.

(5) If, in his testamentary disposition, the testator directed that a foundation be established, the foundation shall be considered as a party interested as heir in the probate procedure.

(6) If the testator established a fiduciary asset management relationship in his testamentary disposition and the trustee has accepted the appointment subject to the terms specified in the testamentary disposition pursuant to section 18/A, the trustee shall be considered a party interested as heir in the probate procedure.

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General provisions

Section 7 The language of the probate procedure shall be Hungarian.

Section 8 There shall be no stay of procedure in the probate procedure.

Section 9 (1) The right of representation of a person acting as a representative in the probate procedure shall be examined *ex officio*.

(2) It shall not be mandatory to have a legal representative in the procedure.

Section 10 In the procedure, an order shall be adopted also on the merits of the case.

Section 10/A (1) In the procedure there shall be no

a) ordering of provisional measures,

b) interruption due to the death or the termination of a party interested in the probate procedure, and

c) intervention.

(2) Section 148 of the Pp. shall not apply to the procedure.

(3) The provisions of the Pp. on minutes shall apply to the procedure, with the proviso that the notary himself may take the minutes, but the minutes may not be taken by way of making a continuous audio recording.

(4) The procedure shall not be separated into a preparatory stage and main hearing stage. The procedural acts allowed by the Pp. until the adoption of the order closing the preparatory stage may be taken until the adoption of the order closing the procedure.

Section 11 (1) The notary shall deliver the documents of the probate procedure to the court as specified in the Pp. through electronic means and the requested court or real estate authority shall reply to the request as specified in the Pp. through electronic means.

(2) The notary shall deliver the documents of the probate procedure to the company registration court, administrative organ or another authority as specified in the Pp. through electronic means and the requested company registration court, administrative organ or another authority shall reply to the request as specified in the Pp. through electronic means. This provision shall not apply to the procedure of the real estate authority.

(3) The party interested in the probate procedure may request in his electronic submission, by referring to the inheritance case, to be served with the documents addressed to him as specified in the Pp. through electronic means.

(4) If an interested economic operator or a person or organisation having a legal representative participates in the probate procedure, the documents shall be served on him as specified in the Pp. through electronic means.

(5) If the party interested in the probate procedure requested to be served with the documents through electronic means, he may later request the notary, when filing a paper-based submission, to approve him to switch to a paper-based procedure, subject to the rules of the Pp. The provisions of the Pp. and of Act CCXXII of 2015 on the general rules on electronic administration and trust services shall apply to the exemptions from service through electronic means.

Section 11/A Sections 15/A to 15/D of the Kjnp. shall apply to probate procedures.

Section 12 (1) A settlement agreement approved in the order of the notary shall have the same effect as a settlement agreement approved by the court.

(2) If the approval or consent of an authority or another third party is required for the settlement agreement to be valid, the notary shall set an appropriate time limit for obtaining it; if the time limit has lapsed without result or the authority or the third person has not given the approval or consent, the notary shall refuse to approve the settlement agreement.

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Section 13 (1) Unless otherwise provided in this Act, with the exception under paragraph (2), there shall be no evidence-taking in the probate procedure; however, the party interested in the probate procedure and other persons participating in the procedure may submit documents to support their positions.

(2) If a party interested in the probate procedure moves for preliminary evidence-taking or the appointment of a judicial expert under the Kjnp. in the probate procedure regarding a substantial matter affecting the distribution of the estate, the notary acting in the probate procedure shall have exclusive territorial competence to conduct that procedure. The notary shall not be bound to make the completion of the probate procedure dependent on the completion of this procedure; however, this procedure, if it has been completed and evidence is allowed to be taken in the probate procedure regarding the matter for which preliminary evidence-taking was ordered or a judicial expert was appointed, shall be taken into account by the notary when distributing the estate.

Section 14 The notary, the local government clerk and the person contributing to the probate procedure shall ensure the protection of the personal data of the testator and of the parties interested in the probate procedure.

Section 15 (1) The rules of confidentiality for notaries specified in the Act on notaries shall also apply to the local government clerk and the person contributing to the procedure. The obligation of confidentiality shall apply to the local government clerk from the commencement of the procedure; it shall apply to the contributor upon his becoming aware of the advice to that effect; the advice shall be included in the minutes and in the document on appointing or designating the contributor.

(2) The court adjudicating the legal remedy, the notary conducting the probate procedure, or, if the notary's mandate has been terminated, the president of the territorial chamber of notaries may grant exemption from confidentiality; granting the exemption may not be refused if the notary who proceeded in the case has been granted exemption according to the provisions of the Act on notaries.

Section 16 (1) If data or a document that is required for conducting the procedure is held by a court, an authority, another state or local government organ, or by another organ or person processing the data (hereinafter jointly "requested party"), the local government clerk or the notary shall request them to disclose the data for the purpose of disclosing the data, presenting the document or making a declaration.

(2) The performance of the request can only be refused if it would violate the law. If performing the request falls under the authorisation of another party, the requested party shall, without delay, but not later than within five days from receiving the request, forward the request to the party authorised to perform the request and at the same time shall notify the requesting party of it.

(3) The request shall be performed free of charge within the time limit specified in it. If the data is available in an electronically recorded register, the request shall be performed within five days.

(4) If the requested person who is processing the data is a Hungarian career consular officer, the period of the diplomatic or consular courier's operation shall not be included in the time limits specified in paragraphs (2) and (3). For the purpose of paragraph (3), the time limit provided for the consular officer to perform the request may be extended by the minister responsible for foreign policy.

Section 17 (1) If the request issued for the purpose of disclosing data, presenting a deed or making a declaration relates to the communication of personal data, it may only relate to personal data to an extent and such types of personal data that are absolutely necessary for the performance of the request. The request shall indicate the exact aim of the data processing and the scope of the requested data.

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(2) If, as a result of the request, any personal data that do not relate to the aim of the request are disclosed to the requesting party, the data shall be deleted without delay.

(3) If the personal data specified in paragraph (2) can be found in the original copy of the document, an extract shall be prepared of the personal data relating to the aim of the request and the original document shall be sent back to the requested party simultaneously.

(4) The notary may impose a fine on the person or organ requested by him for the failure to perform the request within the time limit or for refusing to perform the request without being authorised to do so, by applying accordingly the provisions of the Pp. on the fine the court may impose for procedural declarations being made with undue delay; the request shall contain an advice to that effect.

(5) An express waiver of the right to disclaim inheritance shall be made in the form of notifying the notary who has territorial competence to conduct the probate procedure.

Section 18 (1) If the notary's order affects more than one person, asset or case and for the implementation of measures based on certain provisions of the operative part of the order it is required to send the operative part of the order to an authority, institution or other person interested in the measure, the notary shall only send the excerpt of the order that relates to the relevant person or asset that is necessary for carrying out the measure.

(2) If, upon the request of an authority or the application of the interested party, the notary is required to certify the order of succession prevailing in the estate or a part of it, the notary shall only send the excerpt of the order relating to the relevant person or asset that is necessary for performing the request or the application.

(3) If the testator directed in the will or in the contract of inheritance that a foundation be established, the notary shall notify the court of it and the person obliged to arrange for registering the foundation in accordance with the provisions of the Civil Code (hereinafter the "Ptk."). The court shall decide on registering the foundation without an application, on the basis of the will. The court shall, upon the decision becoming final, notify the notary of the registration of the foundation or the rejection of the registration.

CHAPTER II

COMMENCEMENT OF THE PROCEDURE AND CERTAIN MEASURES RELATED TO THE ESTATE

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Commencement of the procedure

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Section 18/A. (1) The local government clerk or the notary, when becoming aware of the fact that the testator established a fiduciary asset management relationship in his testamentary disposition, shall notify the trustee appointed in the testamentary disposition of it and shall inform him of the contents of the testamentary disposition that concern the trustee.

(2) In the notice under paragraph (1), the local government clerk or the notary shall call upon the trustee to declare, within thirty days after the notice was communicated to him, to the local government clerk who issued the notice under paragraph (1) or to the notary if the notice was issued by the notary, in a public deed or a private deed of full probative value, as to whether or not he accepts the appointment with the terms specified in the testamentary disposition. This declaration of the appointed trustee shall arrive at the local government clerk who issued the notice or, if the notice was issued by a notary, to the notary who issued the notice within this time limit; late declarations shall have no effect. The trustee appointed in the testamentary disposition shall be advised of this in the notice under paragraph (1).

(3) No application for excuse may be accepted for missing this time limit, and the trustee appointed in the testamentary disposition shall be advised of this in the notice under paragraph (1).

(4) If the trustee declares he does not accept the appointment, the fiduciary asset management relationship based on a testamentary disposition shall not be established. If the trustee declares he accepts the appointment but with terms derogating from those specified in the testamentary disposition, fails to make a statement within the time limit under paragraph (2) or the statement is late, the appointment shall be deemed rejected.

(5) The trustee's statement on accepting the appointment or rejecting the statement may not be amended or revoked in the probate procedure; both the amending and revoking statement shall be ineffective.

(6) The establishment of the fiduciary asset management relationship or the lack of its establishment shall be declared in an order, if the notice under paragraph (2) was issued by the local government clerk, by the local government clerk or, if the notice under paragraph (2) was issued by the notary, by the notary. This order shall be communicated to those interested in the succession and, if the order was issued by the local government clerk, to the notary as well.

(7) The order declaring that the fiduciary asset management relationship based on the testamentary disposition was established shall contain the provisions of the testamentary disposition concerning the fiduciary asset management relationship based on the testamentary disposition and concerning the appointment of the trustee.

Section 19 (1) The procedure shall commence when, on the basis of

a) the medical certificate of death,

b) the order on declaration of presumed death or the order establishing death, in the absence of the document under point *a)*,

c) the report made by a person who has a legal interest in the commencement of the probate procedure, or

d) a notification by the real estate authority,

the local government clerk is informed about the death of the testator.

(2) In the report under paragraph (1) *c)*, the data substantiating the reporting person's legal interest in commencing the procedure and data necessary for establishing international jurisdiction (in particular the habitual residence of the testator) and territorial competence for conducting the probate procedure shall be presented. The deed underlying the data that are necessary for establishing international jurisdiction and the territorial competence and the deed certifying the fact of death of the testator subject to the report shall be attached to the report, or the circumstances constituting an insurmountable obstacle to attaching such a deed shall be presented and substantiated.

(3) The report under paragraph (1) *c)* shall be made at the local government clerk. If the report does not contain the elements under paragraph (2), the local government clerk shall, within 8 days, call upon the reporting party to remedy the deficiencies, setting an appropriate time limit for it and advising him of the legal consequences of the failure. The local government clerk shall terminate the procedure in an order if the reporting party failed to comply with the notice to remedy the deficiencies and also failed to apply for the extension of the time limit before the expiry of the time limit specified. The local government clerk shall also terminate the procedure if the reporting party failed to remedy the deficiencies within the extended time limit. Section 115 shall apply to the legal remedy against the decision of the local government clerk.

(3a) If the reporting party fails to provide enough data to establish international jurisdiction, the local government clerk shall arrange *ex officio* for obtaining those data. The procedure shall not be terminated for this reason.

(4) The local government clerk shall start taking the inventory within eight days upon the commencement of the procedure.

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Taking the estate inventory

Section 20 (1) An estate inventory shall be taken for the following items:

a) real estate located in Hungary

b) member's (shareholder's) shareholding in a company registered in a domestic company register or in a cooperative,

c) registered assets, and

d) moveable property, if its value exceeds the value subject to exemption from inheritance duty as provided for by an Act.

(2) An estate inventory shall be taken if, according to the data available to the local government clerk or the notary, the reported debts of the estate are likely to exceed the value of the estate.

(3) An estate inventory shall also be taken upon the application of the party interested in the succession, and, if there is no other asset subject to mandatory inventory, upon the application of those specified in section 6 (1) *db)* to *dc)* an inventory shall be taken of the asset that forms the basis of the applicant's interest in the probate procedure.

(4) An estate inventory shall also be taken if the party interested as heir

a) has an inheritance interest jeopardised and is

aa) a foetus,

ab) a minor,

ac) an adult under custodianship affecting capacity to act,

ad) a person whose whereabouts are unknown,

ae) a natural person prevented from administering his own affairs, or

b) the State of Hungary.

(5) An estate inventory shall also be taken if the testator directed in his testamentary disposition that a foundation be established.

(6) An inventory shall also be taken if a fiduciary asset management relationship was established by the testamentary disposition. The assets subject to the fiduciary asset management relationship (from the shares and proportions of the estate that are subject to the fiduciary asset management relationship) and the assets other than those specified in paragraph (1) *a)* to *c)* shall be specifically indicated only if they are specifically indicated in the testamentary disposition; otherwise it is sufficient to describe them or to indicate them by using generic terms that apply to the assets, estate part or proportion concerned (such as movable property, claims, invested assets, herd or food processing machinery).

Section 21 (1) The inventory shall be taken by the local government clerk with the exception of paragraphs (2) to 3).

(2) The inventory shall be taken by the notary if taking or supplementing the inventory becomes necessary after the procedure of the local government clerk or the administrator authorised by the local government clerk. The notary may also request the competent local government clerk for the purpose of taking or supplementing the inventory.

(3) The inventory shall also be taken by the notary if the local government clerk does not take the inventory within the time limit specified in section 23 (1) and the notary becomes aware of it.

Section 22 (1) With the exception of paragraph (2), the estate inventory shall be taken by filling out the form prescribed for this purpose in a separate law.

(2) The estate inventory, if taken by the notary himself, may also be incorporated into the minutes of the probate hearing.

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(3) The provisions of the Ákr. on

a) the minutes and the memorandum,

b) the clarification of the facts of the case,

c) requests, and obtaining data on the basis of section 36 (2) of the Ákr. from the register of organs specified therein,

d) summons, and

e) involving an official witness

shall apply accordingly to the notary's procedure.

(4) The rules on interviewing witnesses shall apply with the derogation that giving a witness statement can only be refused if the witness would accuse himself or a relative of the witness of committing a criminal offence in the witness statement.

Section 23 (1) The inventory shall be taken within thirty days. This time limit shall be counted from the day when the local government clerk, on the basis of a deed, becomes aware of the asset subject to mandatory inventory or a fact or circumstance rendering it mandatory to take an inventory Apart from the exceptions specified in paragraph (4), the extension of this time limit and the suspension or stay of taking an inventory shall not be possible.

(2) Paper-based deeds being annexes to the inventory shall be forwarded by postal mail in addition to the electronic service pursuant to the provisions of the Pp., if the document contains a testamentary disposition, or presenting or consulting the paper-based deed is necessary for another reason influencing the outcome of the procedure, in particular if the authenticity of the paper-based deed is disputed. The notary may order that the paper-based document be sent *ex officio* or upon the motion of the party interested in the succession.

(3) If the inventory is incomplete, the deficiencies that can be remedied by the local government clerk and the time limit within which the local government clerk can remedy such deficiencies shall be indicated.

(4) If it is necessary in the procedure to request the authority of the host state or to use diplomatic or consular courier, the duration of performing the request or the time necessary for forwarding the mail shall not be included in the time limit for performance under paragraph (1) according to the Act on consular protection.

Section 24 (1) One copy of the inventory shall also be sent, indicating the reason for it, to the competent guardianship authority in order for the necessary measures to be taken, if a person who does not have a statutory representative appears to be a party interested in the succession or whose legal representative may not act either due to a provision of the Act disqualifying him from proceeding or due to an actual obstacle, and this person is

a) a foetus,

b) a minor,

c) an adult under custodianship affecting capacity to act,

d) a natural person who has no statutory representative or authorised agent, whose whereabouts are unknown or who is prevented from administering his own affairs for another reason.

(2) In the cases specified in paragraph (1), the guardianship authority shall, without delay, appoint a guardian, custodian, *ad hoc* guardian or *ad hoc* custodian and shall, without delay, inform the notary of it.

Section 25 (1) If the estate includes assets that were owned by the testator only to a certain proportion, these assets shall be taken into the estate inventory and the ownership ratio of the testator and the value of this proportion shall be indicated.

(2) If, according to the available information, the ownership of the testator is not recorded in the register, this fact shall be indicated in the inventory.

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(3) If, according to the available information, the asset recorded in the register as the property of the testator was not owned by the testator at the time of the opening of succession, the asset shall be taken into the inventory, indicating the person who claims it and under what legal title.

(4) If there is a dispute between the parties interested in the probate procedure as to whether a movable property subject to inventory was owned by the testator at the time of the opening of succession, the movable property subject to the dispute shall be taken into the inventory indicating the person who claims it and its legal title.

Section 26 (1) In the inventory, the value of the real estate taken into the inventory shall be the value indicated in the tax and value certificate issued pursuant to the Act on duties by the local government clerk of the settlement that has territorial competence according to the location of the real estate.

(1a) In the course of taking the estate inventory, the local government clerk shall communicate the contents of the tax and value certificate to the parties interested in the succession, who shall have the right to appeal against the contents of the tax and value certificate in accordance with the provisions of the Ákr. The local government clerk shall send the estate inventory to the notary only after the expiry of the time limit for filing an appeal or, if an appeal was filed against the tax and value certificate, after the adjudication of that appeal.

(1b) If a party interested in the succession becomes aware of the contents of a tax and value certificate in the phase of the probate procedure before the notary, and he disputes the contents of the tax and value certificate, the provisions of paragraph (1a) shall apply as follows:

a) the notary shall set a time limit for the party interested in the succession disputing a tax and value certificate to file, and to certify the filing of, an appeal against the contents of the tax and value certificate; after the expiry of this time limit without result, the notary shall proceed with the probate procedure; if the party interested in the succession certifies to the notary the filing of an appeal within the time limit set, the notary may suspend the probate procedure until the appeal filed against the contents of the tax and value certificate is adjudicated (the related administrative decision is attached to the documents of the case), and

b) the notary may record in minutes the appeal by a party interested in the succession disputing a tax and value certificate, and, at the request of the interested party, shall send it to the authority issuing the tax and value certificate, and may suspend the probate procedure until the appeal filed against the contents of the tax and value certificate is adjudicated (the related administrative decision is attached to the documents of the case).

(2) Before the value of the movable property taken into the inventory is indicated in the inventory, those interested in the succession may make a declaration concerning it, disclosing the data that facilitate the assessment of the value or specifying the property's value according to their estimate of it. This information shall form part of the notice on taking an on-site inventory and on the interview.

Section 27 (1) If information suggesting that the estate might include property, property parts or assets which were part of the estate of a testator person having died earlier but which have not been distributed becomes available while the estate inventory is being taken, the aforementioned assets shall be taken into the inventory, indicating this circumstance, and the estate inventory shall be sent to the notary having competence according to paragraph (2). The local government clerk shall notify the notary competent to proceed in the probate case of the testator who died later of having sent the estate inventory under paragraph (2) to the competent notary, naming that notary.

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(2) If an asset which belonged to the estate of a testator person, who had died earlier, was not the subject of a probate procedure is required to be decided upon in the probate procedure, the probate procedure shall be conducted by the notary having competence to proceed in the probate case of the testator who died earlier. If both procedures have been launched, the probate case of the testator who died later shall be referred to the notary who has competence to proceed under the previous provision.

Section 28 (1) If, according to the data available, the testator was a notary, an attorney-at-law, an independent court bailiff, a judicial expert, a guardian, a custodian or a trustee at the time of his death, this fact and the list of the assets and documents related to this activity of the testator and not taken into the inventory shall be indicated in the minutes.

(2) If there is information showing that the testator was any of the following, the local government clerk or the notary shall inform:

a) the national chamber if the testator was a notary,

b) the Hungarian Bar Association if the testator was an attorney-at-law,

c) the Hungarian Chamber of Court Bailiffs if the testator was an independent court bailiff,

d) the Hungarian Chamber of Judicial Experts if the testator was a judicial expert,

e) the guardianship authority if the testator was a guardian or a custodian,

f) the collective management organisation affected by the works or achievements of the testator if the testator was a beneficiary of a work under copyright protection or of a related legal achievement, or if no such organisation can be identified, the organisation for the collective management of the copyrights related to literary and musical works

for the purpose of taking the necessary measures.

(3) The local government clerk or the notary shall send the minutes under paragraph (1) to the professional organisation specified in paragraph (2). The minutes shall also be sent if no inventory has been taken.

(4) The local government clerk or the notary shall notify, without delay, the custodian or the guardian of the testator of his death, if any data suggest that the testator has either of those at the time of his death, in order to take the necessary measures.

(5) In the course of taking the inventory, the local government clerk or the notary, if obtaining the testator's life insurance contract or accident insurance contract for the event of death, shall notify the insurance company indicated in the contract of the death of the testator.

(6) The local government clerk or the notary, if obtaining the testator’s fiduciary asset management contract or any data suggesting that such a contract was concluded or that the testator was a trustee, shall notify the settlor indicated in the contract (the legal successor of the settlor) the further or new trustee, if known, and the beneficiary without delay, of the event of death.

Section 29 (1) The inventory shall be taken at the location of the property in Hungary in accordance with the rules on inspection if

a) the inheritance interest of a foetus, a minor, an adult under custodianship affecting capacity to act, a person whose whereabouts are unknown or a person prevented from administering his own affairs interested in succession is jeopardised,

b) the only party interested as heir is the State of Hungary, or

c) the local government clerk or the notary, in consideration of the relevant circumstances of the case and by indicating them in the inventory, finds it justified, or

d) an on-site inventory is requested by the person interested as heir, the executor of the will, the creditor of the estate or the guardianship authority.

(2) The parties interested in the succession who are known shall be notified of the date and the place of taking the on-site inventory.

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Section 30 (1) An interview may be held for the purpose of establishing the data constituting the estate inventory. The parties interested in the succession who are known shall be notified of the date and the place of the interview.

(2) The notification shall contain an advice of the fact that failure to attend the interview does not create an obstacle to the estate inventory being taken.

(3) If a foetus, a minor or an adult under custodianship affecting capacity to act appears to be interested in the succession, the local government clerk shall, in the course of taking the estate inventory, interview the statutory representative, guardian, guardian *ad litem* of this person and the *ad hoc* guardian or *ad hoc* custodian acting on behalf of this person, as well as the guardian *ad litem*, *ad hoc* guardian or *ad hoc* custodian appointed for the person whose whereabouts are unknown or who is prevented from acting in the case, and who has no legal representative or authorised agent.

(4) The statements made by the interested parties at the interview and the statements made by the parties present at the inspection shall be indicated, upon their request, in the inventory of the estate and in the report made of the inspection.

Section 31 The law adopted for implementing this Act shall contain the detailed content of the inventory and its annexes.

Section 31/A In the course of the procedure, the local government clerk shall inform the parties of the data acquired by him, the known assets belonging to the estate, their option to request protective measures under section 32 (1) and (2), their right to inspect documents, the course of the proceedings, their rights, obligations and the expected procedural costs.

(2) The local government clerk shall invite the parties to declare, within 8 days of the receipt of the notice, if in addition to those included in the information provided under paragraph (1), further assets belonging to the estate need to be recorded in the inventory.

(3) If a claim for compulsory share is notified to the local government clerk, he shall invite, with an advice as to the provisions of sections 83 and 85, the parties to declare, within 8 days, the assets required to calculate the base of the compulsory share.

(4) In the course of his proceedings, the local government clerk shall inform the parties interested as heirs of their option to negotiate with each other or the creditors of the estate in the phase of the procedure where estate inventory is taken, and of the related legal consequences. The local government clerk shall inform the parties also of the possibility of engaging in a mediation procedure. If the parties reach an agreement, at the joint request of the parties to that agreement, the local government clerk shall forward, together with the request of the parties for approval as a settlement agreement, their written statement to that effect drawn up as a private deed of full probative value or a public deed, annexed as a draft settlement agreement to the estate inventory, to the notary for approval. The local government clerk shall inform the parties also of the option to enter into a settlement agreement in the proceeding before the notary.

(5) Information under paragraphs (1) and (4) shall be provided, and a notice under paragraph (2) or (3) shall be issued, in a way that allows for the inventory to be taken within the time limit specified in section 23 (1), taking into account the time limit of 8 days set for the parties.

Section 31/B If no inventory is taken, the local government clerk shall terminate the procedure as the conditions specified in section 20 (1) to (6) are not met regarding the estate of the testator.

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Protective measure

Section 32 (1) If the estate has not yet been distributed, but the party interested in the succession substantiated that an asset belonging to the estate is jeopardised then, at the justified request of the person interested in the succession and before the estate inventory is sent to the notary, the local government clerk, and later, the notary may, in an order, order as a protective measure that the property in Hungary taken into the inventory, a part of this property or certain assets be

a) placed in court deposit,

b) taken into an authority deposit or notarial deposit (with respect to the person ordering it)

c) put into possession (left in possession),

d) placed under impounding, by sequestration if necessary, unless otherwise provided in this Act, applying accordingly the rules on impounding under the Act on judicial enforcement and of the rules on the impoundment administrator,

e) blocked (if the property is placed with or managed by a payment service provider),

f) sold and the purchase price shall be stored according to point *a)* or *b)*, if

fa) they are subject to rapid deterioration,

fb) they are unsuitable for prolonged storage,

fc) their handling, storage or safeguarding would lead, in particular with regard to the value of the assets or the costs of storage and handling, to disproportionate and significant costs, or

fd) their value would decrease significantly due to the foreseeable long period of storage.

(2) If, according to the inventory, the estate contains a shareholding in a company or in a cooperative as specified in the provisions of the Ptk. on companies and on cooperatives, the local government clerk may, until the inventory is sent to the notary, and then the notary may, as a protective measure, appoint a guardian *ad litem*, for the purpose of exercising member's rights (cooperative rights), at the justified request of the company (cooperative) or another person or organisation affected in their operation, if the measure is obviously necessary for the purpose of protecting the property of the company (cooperative) or for securing the operation of the company (cooperative). The guardian *ad litem* may not vote for adopting a decision resulting in the loss of property and he may not undertake a financial commitment charging the estate, unless if by doing so, he saves the affected company (cooperative) and the party interested as heir from obvious damage.

(3) If, according to the inventory, there a claim belongs to the estate, the notary may, at the request of the party interested in the succession, appoint a guardian *ad litem* to recover the claim.

(4) A guardian *ad litem*, if one is not appointed *ex officio*, shall be appointed by the notary (or by the local government clerk until the inventory is sent to the notary) in an order at the request of any party interested as heir; and, simultaneously with sending the order to the guardian *ad litem*, if the duties change due to the will being found later, the notary shall inform the guardian *ad litem* of his duties. If all parties interested in the succession request, in a joint application, the appointment of a specific person as guardian *ad litem*, the person specified in the application shall be appointed; in the application, the parties interested in the succession shall declare that they have no knowledge of any other party interested in the succession.

(5) The guardian *ad litem* specified in paragraphs (2) to (4) may only be appointed if the foreseeable fees and costs of his proceedings, independently from the costs of the probate procedure, are advanced and borne by the party requesting the appointment of the guardian *ad litem*.

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(6) For testate succession, the provisions under paragraphs (1) to (5) shall only apply if the relevant activity is performed otherwise than by an executor of the will or a person obliged to act according to the provision of the Ptk. in the interest of having the foundation registered.

Section 33 If it can be established that assets belonging to the estate or a part of them are jeopardised as specified under section 32 (1), a protective measure may be ordered *ex officio* before the guardianship authority is notified, if any of the following seems to be interested in the succession:

a) a foetus, a minor, a person under custodianship affecting capacity to act and who does not have a statutory representative or whose statutory representative may not act either due to a provision of the Act disqualifying him from proceeding or due to an actual obstacle, or

b) a person with no statutory representative or an authorised agent whose whereabouts are unknown or who is prevented from administering the case for another reason.

Section 34 (1) The protective measure ordered by the local government clerk shall be carried out by the local government clerk himself. The protective measure ordered by the notary may be carried out by the notary himself, or he may request the local government clerk having territorial competence according to the location of the asset to carry out the protective measure. The requested local government clerk shall perform the request without delay.

(2) The executor of the will and the appointed guardian *ad litem* shall make a report, as ordered by the local government clerk or the notary, of the protective measure carried out by him.

Section 35 (1) Before ordering a protective measure, the party directly affected by the protective measure shall be heard, if necessary.

(2) It shall be possible to dispense with ordering a protective measure if the possessor of the asset affected by the protective measure provides security of a value corresponding to the value being jeopardised that is suitable for being placed in notarial deposit, or in authority deposit if the protective measure is ordered by the local government clerk. The security offered shall be taken into an authority deposit or notarial deposit. Cash or securities that can be released into circulation without limitation may be accepted as security.

Section 36 (1) The costs of the protective measure shall be advanced by the person who requested the protective measure.

(2) The local government clerk or the notary shall call upon the person applying for a protective measure to place in notarial deposit the costs expected to occur due to the protective measure being carried out. If the applicant fails to comply with the notice, the application shall be rejected.

Section 37 (1) The ordered protective measure shall be indicated in the inventory.

(2) The order on the protective measure shall also be served upon the parties interested in the probate procedure.

(3) A record shall be taken on the performance of the protective measure.

Section 38 (1) If the right to dispose of, possess or use the asset that is affected by the protective measure is entered in a publicly certified register or in a register held by a payment service provider and the law allows for the registration of the measure, the authority or payment service provider holding the register shall be requested to register the measure. The requested party shall register the protective measure without delay and shall notify the requesting party thereof.

(2) After the protective measure is ordered, the party sustaining the protective measure shall tolerate the temporary restriction of the right of disposal, possession or use. No one may rely on not knowing of the protective measure that is registered in a publicly certified register.

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Section 39 (1) The person, including the contributor under this Act, who becomes the possessor of the property, a specific part of the property or of certain assets, upon the protective measure

a) shall act in this respect according to the provisions of the Ptk. on unjustified possession and the instructions of the party ordering the measure,

b) shall submit an account of the proceeds of it to the notary; the parties interested in the succession may challenge the accuracy of this account at court.

(2) The order on the protective measure shall contain information about the obligation under paragraph (1).

Section 40 (1) The counter-value originating from the sale of the asset affected by the protective measure shall replace the asset affected by the protective measure.

(2) If, due to the absence of other intestate heirs, the State of Hungary is likely to inherit the estate and it is absolutely necessary for the purpose of covering the costs of the funeral, the local government clerk or the notary, at the request of the State of Hungary, may approve, applying accordingly the rules on ordering and carrying out protective measures that certain movable properties belonging to the estate be sold. The proceeds of the sale shall be spent on covering the costs of the funeral and the remaining amount shall be placed in court deposit or notarial deposit.

Section 41 (1) The protective measure shall be terminated without delay when the cause of ordering it has ceased to exist.

(2) The termination of the protective measure ordered earlier in the probate procedure and not yet terminated shall be regulated in the order on the termination of the probate procedure, the estate distribution order with full effect or in the order establishing that the estate distribution order has reached full effect.

Section 42 The costs incurred due to carrying out the protective measure shall be established in the order on terminating the measure or in the order closing the procedure; if the measure is terminated or the procedure is closed by the local government clerk, it shall be established in the order of the local government clerk. The bearing of costs shall be decided in that order, in consideration of all circumstances related to the justification of ordering the protective measure.

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Measures after the estate inventory is taken

Section 43 (1) For the purpose of facilitating the procedure to be conducted more rapidly, the notary, if the provisions under paragraph (2) are not applicable, may take measures, if necessary, to prepare the hearing, and if the case is suitable for a hearing, the probate hearing shall be set without delay.

(2) The notary shall examine the estate inventory within fifteen days of its receipt and, if it is justified,

a) shall notify that he cannot act due to a ground for disqualification,

b) shall arrange the transfer of the documents for reasons of territorial competence,

c) shall arrange the supplementation of the deficient inventory, either in his own material competence or by requesting the local government clerk, or

d) shall terminate the probate procedure.

(3) In order to learn whether the testator had a will, the notary shall contact through electronic means the National Register of Wills.

(4) For the purpose of inquiring whether the testator had a property contract, the notary shall request through electronic means the electronic register of matrimonial property contracts and property contracts between cohabitants, and shall obtain the property contract on the basis of the data registered.

Measures related to the estate on property located abroad

Section 43/A (1) The provisions of section 20 shall apply to taking the inventory of estate located abroad, with the proviso that the estate located abroad shall be included in the estate inventory if its existence and belonging to the estate has been verified.

(2)

(3) The notary may also *ex officio* arrange for obtaining the document that verifies the existence of property located abroad and its belonging to the estate.

Section 43/B The notary may authorise, upon his request, the party interested in the succession to obtain the data concerning the assets of the estate located abroad and the documents and deeds related to those.

(2) At the joint request of more than one party interested in the succession, the notary may also authorise the parties interested in the succession jointly to obtain the data, documents and deeds under paragraph (1). In such a case, the interested parties shall proceed jointly.

(3) In his order under paragraphs (1) and (2), the notary shall set a time limit for the party interested in the succession authorised to obtain the data concerning the assets of the real estate and the documents and deeds related to those for obtaining the data, documents and deeds under paragraphs (1) and (2), for communicating the data, and for submitting the documents and deeds, to the notary.

(4) The notary shall disregard data communicated, and documents and deeds submitted, after the expiry of the time limit under paragraph (3).

CHAPTER III

DISTRIBUTION OF THE ESTATE WITHOUT A HEARING; PROBATE HEARING

Distributing the estate without a hearing

Section 43/C (1) With the exception specified in paragraph (3), the notary shall distribute the estate without holding a hearing within 45 days of the receipt, in regular order, of the complete estate inventory, provided that the data and statements required for the distribution of the estate are available and further measures are not required.

(2) If, based exclusively on available data and documents and the text of the draft settlement agreement, the contents of a draft settlement agreement drawn up as a private deed of full probative value, or a public deed, and annexed to the estate inventory are in accordance with the applicable law, the notary shall

a) decide on the approval of a settlement agreement without holding a hearing within 30 days of the receipt of the estate inventory and distribute the estate without a hearing within 30 days of the order to this effect becoming final and binding, or

b) decide also on the approval of a settlement agreement in the estate distribution order adopted without a hearing within 45 days of receipt of the estate inventory,

provided that the estate inventory contains all data required for distributing the estate and no further procedural acts are required for the assessment of the lawfulness of the draft settlement agreement.

(3) A hearing shall be held if

a) the testator left a testamentary disposition,

b) more parties are interested as heirs and, according to data available, the inheritance interest of one of the parties interested as heirs is in jeopardy, provided that this person is

ba) a foetus,

bb) a minor,

bc) an adult under custodianship affecting capacity to act,

bd) a natural person without a statutory or authorised representative, whose whereabouts are unknown or who is prevented from administering his own affairs for any other reason,

c) the lawfulness of a settlement agreement to be entered into may not be assessed on the basis of data available or a settlement agreement to be entered into seems to be unlawful,

d) the parties interested as heirs wish to involve a person other than a creditor of the estate in their settlement agreement,

e) the notary finds holding a hearing justified due to the occurrence of a controversial circumstance or any other reason,

f) a party interested in the succession requests a hearing to be held, with the exceptions specified in paragraph (4), or

g) a claim for the redemption of the right of the surviving spouse was submitted in a probate procedure.

(4) A party interested in the succession shall not request a hearing in the following cases:

a) if there is only one intestate heir and no other claimant comes forward with a claim in or against the estate,

b) if the parties interested as heirs make identical statements drawn up as a private deed of full probative value or a public deed that they are the sole intestate heirs of the testator and they request the distribution of the estate according to the order of intestate succession, or they attach to the documents a settlement agreement drawn up as a private deed of full probative value or a public deed concluded between them on the estate, on the basis of which the estate can be distributed,

c) in a supplementary probate procedure, if apart from those interested as heirs in the supplementary probate procedure, no other party interested in the succession comes forward,

d) if only movable property is left after the testator the distribution of which is not subject to inheritance duty due to its nature or value,

e) if only movable property is left after the testator and the testator is granted full fee exemption due to personal circumstances.

(5) Before the estate distribution order adopted without a hearing becomes final and binding, the intestate heir may request that a probate hearing be set, if he disclaims inheritance, intends to conclude a settlement agreement with another party interested in the succession or to derogate from a settlement agreement attached to the documents and used as a ground for distributing the estate without hearing, or he intends to transfer his inheritance or a part of it to the creditor of the estate to satisfy the claim of the creditor of the estate, or to the heir upon disqualification in the probate procedure, or intends to conclude a settlement agreement with a claimant. The intestate heir shall be advised of this right in the estate distribution order adopted without a hearing.

(6) In the course of a hearing, or after switching to distributing the estate in a hearing, if distributing the estate without hearing becomes possible due to a change occurring in the course of the proceeding, the notary may switch to distributing the estate without hearing.

(7) To the rejection of a request for a hearing, the provisions pertaining to the rejection of an appeal shall apply accordingly.

Setting the probate hearing

Section 44 (1) When setting the hearing, it shall be ensured that there are at least eight days between the summons being served and the hearing. In the event of urgency, the notary may shorten this period.

(2) With the exception specified in paragraph (3), the hearing shall be set for a date which allows the first hearing to be held on a day within two months of the notary’s receipt of the estate inventory or of its supplementation, if the notary requested it.

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(3) The notary may extend the deadline specified in paragraph (2)

a) by taking into account the time of service, if, in order to prepare for the hearing, the request or the summons is served abroad,

b) in consideration of the time necessary for performing the measure if, according to the data obtained while preparing for the hearing, taking further preparatory measures is necessary for the hearing to be held.

Section 45 The hearing shall be set to be held in the notary's official premises however, if there are important reasons for it, the hearing may be set to another location.

Obtaining the testamentary disposition

Section 46 (1) If any data suggest that the testator made a written testamentary disposition, the notary, if the original copy of it is not available to the notary, shall call upon the authority or person holding it in its or his possession to hand it (or, if provided so by an Act, its certified true copy or authentic copy) over.

(2) The person who obtains dependable information about the death of the testator or who is called upon by the notary to hand over the testamentary disposition, if he is in possession of it or knows where or in whose possession it is, shall hand over or send the notary the written testamentary disposition of the testator or the relevant data without delay.

(3) The testamentary disposition shall be mailed in a letter with acknowledgement of receipt or it may be handed over to any local government clerk or notary in Hungary or to the Hungarian career consular officer abroad. The local government clerk or the notary shall forward, in a letter with acknowledgement of receipt and free of charge the testamentary disposition taken over to the notary proceeding in the inheritance case.

(4) If the testamentary disposition was handed over to the Hungarian consular officer abroad, it shall be submitted to the minister responsible for foreign policy by that consular officer. Thereafter, the minister responsible for foreign policy shall be in charge of sending the testamentary disposition according to paragraph (3). The diplomatic or consular courier used for performing the request shall not be included in the time limit of performance.

Section 47 (1) If any data become known showing that an oral testamentary disposition was made, the notary may call upon the person who knows the circumstances of making the oral testamentary disposition and its content to make a preliminary statement; the person called upon shall be obliged to comply with the notice.

(2) Unless otherwise provided by the notary, the statement on the circumstances of making the oral testamentary disposition and its content can be made

a) by serving a private deed of full probative value or a public deed, or by delivering or forwarding it to any local government clerk or notary in Hungary or to the Hungarian career consular officer abroad, or

b) at the notary in a statement incorporated in a notarial deed, or at the authorised Hungarian career consular officer in a statement incorporated in a consular deed.

(3) The statement under paragraph (2) of the witness to the oral testamentary disposition shall indicate that the witness was aware of the obstacles to making a witness statement and of the consequences of perjury when making the statement. The witness to the oral testamentary disposition shall be advised of this in the notice under paragraph (1) by presenting the obstacles to making a witness testimony and the consequences of perjury.

(4) The local government clerk or the notary receiving the document concerning the oral testamentary disposition or incorporating the statement in a deed shall deliver the received document or the certificate on the statement to the notary acting in the probate procedure without delay and free of charge.

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(5) The consular officer receiving the document on the circumstances of making the oral testamentary disposition and its content, or incorporating the statement on it in a deed, shall submit the received document or the consular deed on the statement to the minister responsible for foreign policy, who shall deliver it free of charge to the notary acting in the probate procedure. The diplomatic or consular courier used for forwarding shall not be included in the time limit of performance.

(6) If the witness to the oral testamentary disposition died or is unable to make a statement for any other reason, the circumstances of making the oral testamentary disposition and its content may also be verified upon the statement made earlier by the witness and incorporated in a private deed of full probative value or in a public deed or upon the statement of a person who is aware of what was heard by the deceased witness.

Section 48 (1) For the purpose of preparing the hearing, the notary acting in the probate procedure may open the will placed in deposit in a closed envelope by the testator.

(2) The notary shall, if detecting any circumstance indicating the potential invalidity of the testator's testamentary disposition, notify the persons concerned of it when announcing the testamentary disposition at the latest.

Ad hoc guardian, *ad hoc* custodian and guardian *ad litem*

Section 49 (1) The notary shall appoint a guardian *ad litem* or, if it did not happen while taking the inventory, request the guardianship authority to appoint an *ad hoc* guardian or *ad hoc* custodian if

a) the party interested in the succession does not have a statutory representative or is a foetus, a minor or a person under custodianship affecting capacity to act,

b) the party interested in the succession whose whereabouts are unknown or whose whereabouts are known but who is prevented from returning has neither a statutory representative nor an authorised agent, or

c) the statutory representative of the party interested in the succession is not entitled to act by virtue of a provision of the law or the guardianship authority, or due to conflict of interest or another actual obstacle.

(2) If the data known by the notary suggest that placing the party interested in the succession under custodianship affecting capacity to act would be justified and the failure to do so could cause him harm in the probate procedure, the notary shall notify the competent prosecutor or the competent guardianship authority, along with communicating to the party interested in the succession the data on his interests and other available data, for the purpose of initiating a procedure for placement under custodianship, if applicable.

(3)

Section 50 The notary may appoint a guardian *ad litem* only if the foreseeable expenses and the expected fee of the guardian *ad litem* has been advanced. The notary shall provide in a separate order on advancing the foreseeable expenses and the expected fee of the guardian *ad litem*.

Section 51 The notary shall primarily appoint a law office or an individual attorney-at-law as guardian *ad litem*. In the event of urgency, another person interested in the succession may also be appointed as guardian *ad litem*, provided that neither he nor the third person he represents, if any, is a party with opposing interests to the interests of the person concerned.

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Section 52 Unless otherwise provided in the Act, the provisions on the legal position of the authorised agent shall apply to the guardian *ad litem,* subject to the derogation that the power of the guardian *ad litem* shall extend to all statements and acts connected to the probate procedure, including the receiving the estate of property; however, he may accept cash, securities and valuables only upon the approval of the guardianship authority. The guardian *ad litem* shall not be entitled to conclude a settlement agreement, waive rights to recognise rights (claims) or to undertake an obligation, except if protecting the party represented by him from apparent harm.

Summons

Section 53 (1) In the absence of the testator's testamentary disposition, the notary shall summon to the probate hearing

a) the intestate heirs,

b) the creditor of the estate,

c) the claimant appearing in the probate procedure and

d) the person who, being the possessor of a thing that belongs to the estate of the testator or being the obligor of a claim or a right that belongs to the estate of the testator and passes upon death to the heir (legatee), requested to be summoned.

(2) If the testator left a testamentary disposition, the notary shall, by communicating the substantial content of the testamentary disposition, summon to the probate hearing

a) the party interested as heir and identified in the testamentary disposition,

b) the intestate heir entitled to a compulsory share,

c) the executor of the will,

d) the creditor of the estate,

e) the claimant appearing in the probate procedure, and

f) the person who, being the possessor of a thing that belongs to the estate of the testator or the obligor of a claim or a right that belongs to the estate of the testator and passes upon death to the heir (legatee), requested to be summoned,

g) the co-owners who concluded the joint contract of inheritance, the co-owner surviving the testator.

(3) If the notary detects any circumstance suggesting the possible invalidity of the testator's testamentary disposition, or if any intestate heir, notwithstanding the testator's testamentary disposition, has reported a claim to the estate as heir, then all intestate heirs shall be summoned to the probate hearing.

Section 54 If the testator made an oral will, the notary may choose to summon to the probate hearing the witnesses to the oral will; however, if the witness made no preliminary statement, or the party interested in the succession requests so, the notary shall be obliged to summon the witnesses for the purpose of having their statements recorded in minutes. If, due to the statements made by the witnesses, the data of interested parties who have not been summoned to the hearing become known, the notary shall postpone the hearing.

Section 55 (1) The notary shall announce the oral will by reading out the witnesses' preliminary written statements or their statements recorded in the minutes of the hearing.

(2) The notary shall send the witnesses' preliminary written statements or the minutes of the hearing containing the statements of the witnesses to the parties interested as heirs, either known earlier or became known as a consequence of the witnesses hearing, who were not present when the witnesses to the oral will were heard or when the oral will was announced. If no such interested party is known, the notary shall announce the oral will without delay, otherwise the will shall be announced after the substantial content of the will is duly communicated to the interested parties who were not present when the witnesses were heard.

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Section 56 (1) If the party interested in the probate procedure does not have a domicile, place of residence (hereinafter jointly in this section “domicile”) or seat in Hungary, nor has an authorised agent with a domicile or seat in Hungary, the notary shall, upon serving the summons, call upon that party to designate an agent for service of process.

(2) The interested party under paragraph (1) shall notify the name and the address of the agent for service of process not later than at the first probate hearing and shall, at the same time, submit the agency contract concluded with the agent for service of process and incorporated in a private deed of full probative value or in a public deed. In the case of a company, the foreign interested party’s agent for service of process entered in the register shall act as the agent for service of process without an agency contract.

(3) If, until the date specified in paragraph (2) and after the termination of agency is notified is notified either by the principal or the agent, the interested party fails to designate without delay a new agent for service of process without being called upon to do so without delay, or the documents cannot be served on the agent for service of process, no notice to remedy deficiencies with respect to it shall be issued and the interested party shall not be called upon, but the notary shall serve the document for the interested party through service by public notice. This provision shall not apply to the service of summons to the first hearing; the rules of the Pp. on service abroad shall apply to the service of these documents.

(4) The interested party under paragraph (1) shall be specifically advised of the provisions of this section.

Section 57 (1) The summons shall also contain advice on the following:

a) if someone fails to appear at the hearing despite having been duly summoned, his failure shall not prevent the probate hearing from being held and the order from being issued,

b) it is possible to make a settlement agreement and

c) it is possible to resort to a mediation procedure,

d) the person summoned shall notify without delay that a procedure related to the testator’s estate abroad was conducted or is in progress, if he knows about it, and shall provide the data necessary for identifying the foreign procedure.

(2) If, according to the data available to the notary, the spouse of the testator is entitled to submit a claim for the redemption of the usufruct entitling that spouse to be an intestate heir (hereinafter “right of the surviving spouse”), the notary shall inform the holder of the right of the surviving spouse and the intestate heirs of the possibility to redeem the right of the surviving spouse.

Section 57/A (1) The notary shall act according to the Act on the rules of taxation at the written request of the heir summoned to the probate hearing and shall inform the heir who submitted an inquiry about the content of the information provided by the tax administration.

(2) When informing the heir summoned to the probate hearing, the notary shall call the attention of the heir, in writing, to the obligation of confidentiality regarding tax secrets, the rules on extraordinary tax assessment due to the death of the taxpayer and to the fact that the information provided may be different from the result of an extraordinary tax assessment.

Public notice

Section 58 (1) If the whereabouts of a party interested in the probate procedure with no representative are unknown or is located in a state that offers no judicial assistance for service of documents or if the service of documents faces another irremovable obstacle or if attempting the service of documents is expected to be unsuccessful, the service of documents shall be performed by way of public notice.

(2) The public notice shall be made public for fifteen days and it shall be considered as served on the fifteenth day.

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Section 59 (1) The notary shall send the public notice through electronic means to the national chamber, which shall arrange for the electronic publication of the public notice.

(2) For publishing public notices, the national chamber shall operate an online public electronic register that is accessible continuously and can be consulted free of charge. The national chamber shall publish the public notice in the register on the first working day following its receipt, indicating the date of the publication. The national chamber shall notify the notary of this fact through electronic means and free of charge on the fifteenth day of its publication.

(3) The legal consequences of publication shall arise on the basis of the publication in the register of the national chamber.

Section 60 (1) The document to be served by way of public notice shall be posted on the bulletin board of the mayor's office having territorial competence at the last domicile in Hungary of the interested party; in the absence of that, the registered place of residence of the interested party; in the absence of the that, the seat of the notary having territorial competence for the probate procedure.

(2) The notary shall send the public notice through electronic means to the mayor's office, which shall post it on its bulletin board on the next working day following its receipt, indicating the date of publishing. The mayor's office shall notify the notary of this fact through electronic means and free of charge on the fifteenth days of the publication.

Section 61 At the request of any of the parties interested in the probate procedure, the public notice shall be published on the government portal specified in a separate law or, provided that its costs are advanced, by other means (in a national daily paper or in another form). The related costs shall be borne by the person requesting the publication of the notice.

Section 62 (1) The public notice shall contain:

a) the day of publication,

b) the name and the seat of the notary acting in the probate procedure,

c) the case number,

d) the name of the testator,

e) the name and the last domicile (seat) in Hungary of the addressee; in the absence of those, the registered place of residence of the addressee,

f) the reason for which service by public notice is necessary,

g) the data and advice to be imparted to the interested party (the content of the communication).

(2) If the order is served by public notice, the public notice shall contain, instead of the order, the information that the notary has made an order in the case but its service has not been successful and therefore the interested party or his representative may receive the order from the notary.

(3) If the testamentary disposition of the testator is served by public notice, the public notice shall, instead of the testamentary disposition, contain the information that the interested party or his representative is entitled to consult the testamentary disposition of the testator at the notary.

Section 63 (1) If the party interested in succession cannot be identified due to his natural identification data, in whole or partly, being unknown, the interested party shall be summoned to the hearing by public notice, also calling upon him to report his claim to the notary within thirty days of the publication of the public notice.

(2) The unknown party interested in the succession who does not report his claim within the time limit specified in the public notice and does not appear at the hearing shall not be regarded as an party interested in the succession for the remainder of procedure, and his claim shall also be disregarded.

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Section 64 (1) If data emerging in the procedure suggests that the State of Hungary should inherit, as there are no other intestate heirs, the notary, applying the rules on service by public notice accordingly, shall issue a public notice to call upon all who may hold a claim to the estate as a party interested in the succession to report it to him in writing within thirty days of serving the public notice.

(2) The notary, simultaneously with sending the public notice, shall notify the State of Hungary of the probate procedure through the organ representing the state in civil law legal relationships related to national assets.

(3) If no party interested as heir comes forward to lay claim to the estate within the time limit under paragraph (1), the notary shall establish that the State of Hungary inherits as intestate heir, and shall distribute the estate, with due regard to the claims in the estate reported under other legal titles, according to the general regulations.

Section 65 (1) At the request of any party interested in the succession, the notary, applying the rules on service by public notice, shall call upon the creditor of the unknown debt in the estate to report his claim in writing at the notary within thirty days of service.

(2) A creditor who failed to report his claim within the time limit specified in the notary's notice

a) may not challenge the satisfactions made until he reports his claims with respect to keeping the order and the proportion of the satisfaction of the creditors in his group and

b) may only request satisfaction from the co-heirs that is proportionate to their shares of the inheritance after the division of inheritance.

(3) The limitation under paragraph (2) shall not apply to the benefit of an heir who was aware of the claim independently from it being reported.

(4) In the case under paragraph (1), the public notice shall contain a warning of the provisions under paragraphs (2) to (3) and the notary shall also inform the interested parties of the warning.

Section 66 (1) The national chamber shall keep an electronic register of services by public notice (hereinafter in this section "register") in which the chamber records the name of the proceeding notary, the case number, the name of the addressee who was served by public notice, indicating his last domicile (seat) in Hungary; in the absence of that, his place of residence in Hungary; in the absence of that, the seat of the notary having territorial competence for the probate procedure, as well as the reason for which service was necessary and the time when the presumption of the performance of service arose.

(2) The register is a publicly certified register by application or request; the national chamber shall provide, in a manner specified in a separate law, information about the data contained in it.

(3) Information may be provided upon the application, request or data request of a person other than the addressee of the document served by public notice, if the information is necessary for the court, court bailiff, prosecution service or investigation authority, the notary proceeding in a non-contentious procedure, or the administrative organ, to perform their duties provided by an Act or for the persons requesting information to exercise their rights granted in an Act. The lawful title is required to be substantiated. In such a case, the fact of providing information shall be recorded in the electronic system in a way that facilitates the time, the legal title of data provision and the user of the data to remain identifiable.

(4) Reimbursement, forming part of the notary's expenses, shall be paid for registering and publishing the public notice in the register; the national chamber shall cover the costs of establishing, operating and developing the register of public notices from reimbursements.

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The schedule of the hearing

Section 67 (1) After opening the hearing, the notary shall establish whether those summoned have appeared in person or through their representatives. If a summoned person fails to appear at the hearing, it shall be verified whether he was duly summoned to the hearing according to the provisions of this Act. A duly summoned person's failure to appear shall not prevent the probate hearing from being held and a decision from being adopted.

(2) The probate hearing may also be held if one of the interested parties, who is not present but who should have been summoned to the hearing, was not duly summoned. However, in this case, no order on the merits shall be adopted at the hearing and a new due date shall be set for continuing the hearing, and the notary shall summon the interested party who is not present but who, despite being required to be summoned, who was not duly summoned. The interested parties who have appeared shall only be summoned to the new hearing if necessary.

(3) If the service certificate pertaining to the summons having been served to an interested party who is not present at the hearing has not been returned by the due date of the hearing, adopting an order on the merits shall be postponed until the receipt of the service certificate. If the notary receives the service certificate within thirty days after the day of the hearing, and it proves that the interested party who failed to appear at the hearing was duly summoned to the hearing, the order on the merits may be adopted without setting a new hearing, if holding another hearing is not necessary; the order so adopted so shall be communicated by way of delivery.

(4) If the authorised agent or statutory representative who appears on behalf of the party interested in the probate procedure fails to prove his right of representation, the notary shall, with setting an appropriate time limit, call upon the person appearing on behalf of the interested party to prove his right of representation. If the person appearing as the representative is not entitled to represent the interested party, the interested party shall be called upon, by setting an appropriate time limit, to act in person or by way of a representative in accordance with the Act.

(5) If the deficiency mentioned in paragraph (4) can be remedied, the notary may continue the hearing before remedy of the deficiency, but he shall be obliged to continue the hearing on the mutual request of the interested parties. If the deficiency has not been remedied within the time limit set, the notary shall proceed according to the provisions under paragraphs (1) to (3).

Section 68 (1) If, after counting the parties present, the notary establishes that there is a ground for postponing the hearing, he shall postpone the hearing, and shall, as far as possible, set the date of the continued hearing, provided that

a) any party interested in the probate proceeding requests it for an important reason influencing the decision-making on the merits,

b) it appears worthwhile for the purpose of making a settlement influencing the decision-making on the merits, or

c) it is necessary for the further clarification of the factual situation influencing the decision-making on the merits.

(2) If the hearing is postponed, the notary, if the interested parties in the succession mutually request it before or after the postponement, may make a decision on distributing the estate without a hearing on the basis of the data available, and shall communicate this decision by way of service.

Section 69 (1) At the hearing, the notary shall first present the estate inventory, rectify or supplement the inventory or arrange for it if necessary. The parties present at the hearing may make observations regarding the content of the estate inventory.

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(2) The notary shall announce the testator's testamentary disposition at the hearing. The announcement of the oral will shall consist of reading out the witnesses' statements recorded in the minutes of the hearing and, if any, of reading out, and attaching to the minutes, their statements on the making of the oral will and its content.

(3) A party interested in the procedure who is present at the hearing shall be given the opportunity to make his observation.

Section 70 (1) At the hearing, the notary shall establish on the basis of the statements heard and the documents available,

a) the facts of the case required for distributing the estate,

b) the order of succession to be followed in the case, and

c) who has raised any claim against the estate and under what legal title.

(2) The relative or kin relationship between the person coming forward as the intestate heir and the testator shall be verified in the framework of clarifying the facts of the case.

Suspension of the probate procedure

Section 71 (1) The notary may suspend the probate procedure if

a) he has notified the competent prosecutor or guardianship authority for the purpose of initiating a procedure for placing the party interested in the succession under custodianship, or

b) the distribution of the estate or a part of it depends on the assessment of a preliminary question, the subject of which is

ba) a criminal procedure or administrative authority procedure, or

bb) a civil court action or another civil procedure falling under the material jurisdiction of the court.

(2) The notary shall suspend the probate procedure if, in a question influencing the distribution of the estate,

a) there is a court procedure in progress for establishing the existence or the validity of a marriage or the family status of a child,

b) there is a procedure in progress for the declaration of presumed death or the establishment of death or

c) there is a court of authority procedure regarding

ca) a real estate registered in the real estate register under the name of the testator for the establishment of the ownership share of the surviving spouse or former (divorced) spouse of the testator under the legal title of matrimonial community of property or of the cohabitant of the testator under the legal title of cohabitants' community of property or

cb) a real estate that is not registered in the real estate register for registering the ownership of the testator in the real estate register or

d) an official certificate issued by the agricultural administrative organ specified in the Act on transactions in agricultural and forestry lands is required.

(2a) Simultaneously with issuing the notarial notice under section 18/A (2), the notary shall suspend the probate procedure until the order under section 18/A (2), declaring the establishment of the fiduciary asset management relationship or the non-establishment of the fiduciary asset management relationship, becomes final and binding.

(3) If the procedure under paragraph (1) and paragraph (2) *a)* to *c)* has not yet been initiated but, according to the data available and the statement made by the person entitled to initiate it, the procedure seems likely to be initiated within a short period of time, the notary shall set an appropriate time limit for the entitled person to launch the procedure and to verify it. The procedure may not be suspended if the time limit has lapsed without result. In the case specified in paragraph (2) *d),* the notary shall make a request to the agricultural administrative

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organ to issue the official certificate on the fulfilment of the conditions necessary pursuant to the Act on transactions in agricultural and forestry lands.

(4) The probate procedure may be suspended until the procedures under paragraphs (1) and (2) are closed with final and binding effect with administrative finality.

(5) A partial estate distribution order (section 79) may be rendered during the term of the suspension of the probate procedure.

(6) If the agricultural administrative organ refuses to issue the official certificate according to the Act on transactions in agricultural and forestry lands, the notary shall consider the provision of the testamentary disposition contradicting it to be null and void; with regard to the affected part of the estate, the transfer to the testate heir, the trustee or the foundation founded in the testamentary disposition shall not be established, and the affected part of the estate shall not be distributed, not even with provisional effect, to the estate heir, the trustee or the foundation founded by the testamentary disposition.

Cost of the probate procedure

Section 72 (1) The cost of the probate procedure shall include

a) the fee and reimbursement (notary's remuneration) payable to the notary under the law on notarial tariffs,

b) the fee and the reimbursement (custodian's remuneration) of the guardian *ad litem* specified in a separate law,

c) the cost specified in a separate law incurred in relation to ordering and carrying out the protective measure (cost of the protective measure), and

d) the cost incurred in relation to requesting a foreign authority.

(2) No cost exemption and no cost deferral right shall apply in probate procedures, including the court procedures for adjudicating the appeal against the notary's decision.

Section 73 (1) In the probate procedure, the cost of the probate procedure, with the exception of the notary's fee,

a) shall be advanced by the party

aa) who applied for the measure entailing costs,

ab) who is interested as heir (if the measure was taken *ex officio*) or

ac) whose actions have made it necessary to have translations made;

b) shall be borne by the person whose procedural act necessitated the measure entailing costs;

c) if the person under point *b)* cannot be identified, shall be borne jointly and severally by the heir, the trustee in the fiduciary asset management relationship established in the testamentary disposition and the foundation established by the testamentary disposition.

(2) The cost advanced according to paragraph (1) shall be considered as costs related to distributing the estate.

(3) Unless otherwise provided by the law, the custodian's remuneration and the cost of the protective measure shall be borne jointly and severally by the heir, the trustee in the fiduciary asset management relationship established in the testamentary disposition and the foundation established by the testamentary disposition, if the person under paragraph (1) *b)* cannot be identified or if such person does not inherit.

(4) Advancing the notary's fee shall not be ordered; in other respects, the notary's remuneration

a) shall be advanced by the party

aa) who applied for the measure entailing costs, or

ab) who is interested as heir (if the measure was taken *ex officio*);

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b) shall be borne by the person who inherits and who benefits from it as the beneficiary of a specific legacy or gifting upon death, as a trustee in a fiduciary asset management relationship established in the testamentary disposition or as a foundation established by the testamentary disposition; in the absence of such a person, the person interested in the succession, and in the absence of such a person, the person who initiated the probate procedure.

(5) If there is more than one person obliged to advance or bear the fee of the probate procedure, they shall be liable for this jointly and severally.

Section 74 The amount of money as advance of the costs shall be placed in notarial deposit in accordance with the notice issued by the local government clerk or by the notary.

Section 75 (1) An appropriate time limit shall be set for paying the costs of the probate procedure; which shall not be longer than fifteen days from the day when the order closing the procedure has become final and binding.

(2) The notary shall be entitled to statutory lien upon the estate, to the extent of the unpaid notary's remuneration.

(3) The establishment of the statutory lien shall be laid down in an order by the notary specifying the claim secured by the lien.

(4) Based on a final and binding order by the notary under paragraph (3) and at the request of the notary, the statutory lien the notary is entitled to shall be registered in the corresponding register as a lien on the asset of the estate specified in the request; such registration shall not require any authorisation for registration, or declaration of consent to registering the lien, by the pledger.

(5) Based on an order by the notary under paragraph (3) and at the request of the notary, the statutory lien may also be established on a suitable asset of the estate as collateral security without consent by the pledger.

Section 76 With regard to the order of satisfying enforceable claims, the cost of the probate procedure shall have the same rank as employees' pay.

Section 77 The person applying for the issue of non-certified copy of a document made during the procedure shall pay the notary's fee for issuing a copy as specified by a separate law; for the copy of a document having been made during the local government clerk's procedure, the fee shall be paid to the local government of the settlement.

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Termination of the probate procedure

Section 78 The notary shall terminate the procedure in progress before him in an order if

a) he establishes the lack of his international jurisdiction, or

b) the issue of a certificate of succession has not been applied for and

ba) the circumstance under section 20 (1) *b)*, section 20 (2) or (3) does not exist or ceases to exist and the estate does not contain an asset indicated in section 20 (1) *a)*,

bb) the circumstance due to which taking an estate inventory is mandatory under this Act does not exist or ceases to exist,

bc) the estate inventory was taken upon request and the applicant or if there is more than one applicant, all applicants withdrew their application prior to the adoption of the estate distribution order.

Distribution of the estate

Section 79 It is possible to distribute a part of the estate with provisional or full effect if the preconditions of distribution are met regarding the respective part of the estate (partial estate distribution order).

Section 80 (1) If inheritance is bound to a condition and the condition has not yet been fulfilled then this fact shall be indicated in the estate distribution order.

(2) In the case of inheriting as a person designated as primary heir (hereinafter "primary heir"), the order on the distribution of the estate shall, with regard to the asset, part of property or ratio in the property affected by subsequent succession, include

a) the right of subsequent succession and

b) the limitation of the primary heir's right of disposal as set forth in the Ptk.

Section 81 (1) If the parties interested as heirs have a dispute over which movable properties belong to the estate, the notary shall distribute the movable properties that are not subject to the dispute according to the rules on distributing the estate, with the advice that the claim on the disputed movable properties may be enforced in court.

(2) If a claimant other than one of the parties interested as heirs challenges the movable property's belonging to the estate or ownership, the asset may only be removed from the estate if

a) this claim in respect of the relevant asset is recognised by the parties interested as heirs,

b) it is substantiated by a mark on the movable property or by another circumstance, or

c) it is substantiated by the claimant with a document

that the movable property does not belong to the estate but the claimant is entitled to it.

(3) An asset registered in a publicly certified register as the property of the testator may only be removed from the estate if

a) it can be verified on the basis of a final and binding court decision or an administrative decision having reached administrative finality that it did not belong to the testator's estate, or

b) the person claiming the ownership of the asset proves, with a public deed prior to the closure of the hearing, or in case of distributing the estate without hearing, prior to the adoption of the estate distribution order, that his ownership has been registered in the register.

(4) If the surviving spouse (former spouse) of the testator, or the surviving cohabitant (former cohabitant) of the testator under the legal title of matrimonial community of property or under the legal title of holding a share in the community of property acquired in the course of cohabitation, respectively, has a claim to the property, part of the property or an asset taken into the inventory and

a) the person having the claim is the only party interested as heir and other circumstances suggest that the claim is justified,

b) the claim is recognised by another party interested as heir, or

c) the party interested as heir makes no statement despite being called upon to do so,

it shall be removed from the estate and at the same time, with the exception of the cases under points *a)* and *b)*, a separate order shall be adopted specifying whether the spouse (former spouse) or the cohabitant (former cohabitant) is entitled to it; the probate procedure shall be suspended with respect to the asset until this order becomes final and binding. If the right of disposal over the asset is recorded in a publicly certified register, the registry authority shall be requested, by sending the estate distribution order to it, to register the ownership in favour of the spouse (former spouse) or the cohabitant (former cohabitant).

(5) If there is a suspicion that the person indicated as the owner of the asset in the publicly certified register is not the testator, the asset shall be taken into the estate only if the notary verifies that the two are the same person. If it cannot be established either from the documents of the estate, the deeds presented by the parties interested in the probate procedure or from the statements made by the interested parties, the notary shall request the local government clerk to verify that the two are the same person and to supplement the inventory as a result of it. The notary shall notify, in the estate distribution order, the authority keeping the register that the two being the same person has been established. This notification shall bind the authority keeping the register.

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Section 81/A From the estate located abroad, the property, the existence of which and its belonging to the estate has been proved, may be distributed.

Section 82 In the estate distribution order, the part of the estate regarding which the conditions of distribution with full effect are fulfilled shall be distributed with full effect, while the part of the estate regarding which the conditions of distribution with provisional effect are fulfilled shall be distributed with provisional effect.

Distributing the estate with full effect

Section 83 (1) The notary shall distribute the estate with full effect if there is no statutory obstacle to distributing the estate, and

a) there is only one party interested as heir and, according to the data available, no other person has any claim to the estate under the legal title of inheritance, gift upon death, specific legacy, a testamentary burden of public interest, or of a fiduciary asset management relationship established on the testamentary disposition or a foundation established by the testamentary disposition or

b) there is no inheritance dispute, or, in consideration of the provisions under paragraph (2), there is no secondary inheritance dispute regarding the distribution of the estate in the probate procedure.

(2) The notary shall distribute the estate with full effect also if only a secondary inheritance dispute has been raised and, in this dispute, the party submitting the claim consented to the distribution of the estate with full effect, or the other parties interested as heirs have placed the amount of money equal to his claim in notarial deposit as security. Upon the expiry of thirty days following the estate distribution order with full effect becoming final and binding, the notary shall pay, without delay, the full amount of the deposited security to the depositor, unless the person who submitted the claim proves by the thirtieth day, by presenting a copy of the statement of claim received by the court, that he has initiated a court procedure to enforce his claim. The act of the party interested as heir of agreeing to have a mortgage lien registered upon the real estate that belongs to the estate up to the amount of the claim and advancing the costs of registration shall have the same effects as placing a security in notarial deposit. The notary shall request the real estate authority to register the mortgage lien after the party interested as heir has advanced the costs. If the party interested as heir advances the fee for deletion and the person who submitted the disputed claim in the probate procedure, within thirty days after the estate distribution order with full effect becomes final and binding, does not certify, by presenting a copy of the statement of claim received by the court, that he has initiated a court procedure to enforce his claim, the notary shall request the real estate authority to delete the mortgage lien.

(3) If the person who submitted a claim in the secondary inheritance dispute has certified to have brought an action under paragraph (2),

a) the notary shall pay the amount of the security to the depositor or to the person entitled to it upon the court's decision on the merits if the statement of claim is rejected with final and binding effect, provided that the legal effects attached to filing a statement of claim have not been maintained, if the court procedure is terminated without a decision on the merits being rendered or the court procedure is terminated as a result of the stay of the procedure,

b) the mortgage lien, upon request,

ba) shall be deleted if the court rejected the statement of claim, provided that the legal effects attached to filing the statement of claim have not been maintained, or the court procedure was terminated with final and binding effect without a decision on the merits being rendered or

bb) shall be amended in accordance with the final and binding court decision on the merits.

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(4) The cost of real estate registry procedures under paragraph (3) *b)* shall be borne by the party in favour of whom the procedure for deleting or amending the mortgage lien, or aimed at increasing or decreasing it, has been initiated.

(5) In addition to those provided by law, in the statement of claim initiating the procedure under paragraph (2), the fact of depositing an amount of money or the registration of the mortgage lien shall be indicated and a request for adjudicating them shall be submitted. The court shall send the notary its final and binding judgment or its order terminating the court procedure or establishing the termination of the action to take the measures related to the notarial deposit, and to the real estate authority to take the measures related to the mortgage lien; for the same reason, the court shall send the notary or to the real estate authority the order rejecting the statement of claim with final and binding effect only if the legal effects attached to filing the statement of claim have not been maintained.

(6) A secondary inheritance dispute under section 6 (1) *jb)* shall not constitute an obstacle to the estate being distributed.

Section 84 The notary shall distribute the estate, burdened with the right of the surviving spouse, with full effect, if only this right or its extent is the subject of a dispute.

Distributing the estate with provisional effect

Section 85 (1) The estate, if cannot be distributed with full effect, shall be distributed with provisional effect.

(2) The person obtaining the estate with provisional effect, with the exception of the asset taken into or remaining in the possession of another person based on a protective measure, may hold in his possession the estate distributed to him with provisional effect, and may take into possession the assets which are not in his possession, and may use them as a possessor acting in good faith, but shall not be entitled to alienate or encumber them until the estate is distributed with full effect or the estate distribution order has reached full effect.

(3) If an estate distribution order with provisional effect is adopted, the heir may pay the costs of distributing the estate and the inheritance duty from the estate; for this purpose, the heir, on the basis of the notary's order of approval, may sell the assets of the estate or take into possession the cash or the asset placed in court deposit or taken into notarial deposit. If the heir uses, for a purpose other than the above, the amount originating from the cash or asset taken into possession or from selling the latter, he shall be liable with his own property up to the extent of this amount for paying these costs.

Section 86 (1) The estate subject to an inheritance dispute, regardless of who possesses it, shall be distributed with provisional effect to the contractual heir; in the absence of such, to the testate heir; if there is a written and an oral will, to the heir named in the written will; and in the absence of a testamentary disposition, to the intestate heir.

(2) If the contract of inheritance or the will upon which the heir establishes his claim does not meet the form-related requirements set forth in the Act, the estate subject to the dispute shall be distributed with provisional effect to the heir named in the will complying with the formalities set forth in the Act or to the intestate heir. This rule shall also apply accordingly if the testamentary disposition is invalid due to its content.

(3) Regarding all other inheritance disputes, distributing the estate with provisional effect shall be decided on the basis of the data available.

Section 87 In the order, the parties shall be advised of the provisions on the legal effects of distributing the estate with provisional effect.

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Section 88 (1) The estate distribution order with provisional effect shall reach full effect if

a) the party entitled fails to prove that an inheritance action has been brought,

b) the court rejected with final and binding effect the statement of claim to bring the inheritance action,

c) the court dismissed the claim with final and binding effect,

d) the court terminated the inheritance action with final and binding effect,

e) the court closed the inheritance action without deciding on the merits.

(2) The notary shall establish in an order that the estate distribution order with provisional effect has reached full effect upon the expiry of the time limit in the case under paragraph (1) *a)* or within fifteen days of receiving the document specified in paragraph (1) *b)* to *e)*.

Section 89 If the final and binding decision of the court adjudicating the inheritance action differs fully or partly from the estate distribution order with provisional effect, the notary shall set aside the estate distribution order with provisional effect in its part affected by the court decision and render a estate distribution order with full effect in accordance with the court decision while establishing that that estate distribution order, in its part not affected by the court decision, reaches full effect. If the court adjudicates all claims affected by the estate distribution order with provisional effect, the notary, instead of issuing an estate distribution order with full effect, shall establish in his order closing the probate procedure that the court decision is to be applied to the claims.

Communicating orders

Section 90 (1) The orders issued at the hearing shall be delivered on the day of the hearing.

(2) The following shall be communicated by way of service of documents:

a) the estate distribution order or another order closing the procedure, with the exceptions under paragraph (3)

aa) to the parties interested in the probate procedure,

ab) to the guardianship authority if a foetus, a minor or a person under custodianship affecting capacity to act or a person whose whereabouts are unknown is involved as a party interested;

b) the order issued at the hearing to the interested party participating in the procedure who was not duly summoned to the hearing;

c) the order issued at the hearing which sets a new due date or may be appealed independently, to the interested party who failed to appear at the hearing despite having been duly summoned;

d) the order issued without a hearing to the interested parties.

(3) The notary may serve the estate distribution order or any other order closing the procedure without delay to the interested parties present at the hearing.

(4) Orders not falling under paragraph (2) shall be deemed communicated upon announcement.

Measures following the termination of the procedure

Section 91 (1) The notary shall establish that an order subject to appeal has become final and binding. The parties interested shall not be notified of the order becoming final and binding, but, at the request of an interested party, the clause certifying that the order has become final and binding shall be affixed to the presented copies of the order.

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(2) If registration in a publicly certified register is required for applying the legal consequences of an estate distribution order with full effect or an estate distribution order with provisional effect that has reached full effect subsequently, the notary shall request, by sending a copy of the order, the domestic authority keeping the register to carry out the registration.

(2a) If the estate distribution order with full effect contains the right of subsequent succession, the notary shall enter in the National Register of Wills the primary heir's name, birth name, place and date of birth, mother's birth name and the data necessary for the individual identification of the estate distribution order with full effect containing the right of subsequent succession.

(3) After establishing that the estate distribution order with full effect and the order establishing that the estate distribution order with provisional effect has reached full effect becomes final and binding, the notary shall take the measures provided for by law.

(4) After establishing that the estate distribution order with full effect, the order establishing that the estate distribution order with provisional effect has reached full effect or the order terminating the procedure becomes final and binding, the notary shall, in accordance with the provisions of the order, arrange for releasing the asset placed in authority, notarial or court deposit upon a protective measure, and for returning the asset given into possession (left in possession) with a protective measure ordered earlier in the course of the probate procedure to the party entitled to the asset, as well as for terminating the sequestration.

(5) In the estate distribution order with provisional effect, the notary shall arrange for maintaining or terminating the protective measure ordered earlier in the probate procedure. The notary shall terminate the protective measure if the grounds for ordering it have ceased to exist.

Section 92 (1) The notary shall send the final and binding estate distribution order with full effect and the estate distribution order with provisional effect that reached full effect to the competent organ of tax administration for the purpose of charging duties.

(2) In order to report the estate, the notary shall send the competent organ of tax administration the final and binding estate distribution order with full effect, the estate distribution order with provisional effect that reached full effect and the other documents provided by the law within fifteen days after establishing that the estate distribution order with full effect and the order establishing that the estate distribution order with provisional effect has reached full effect becomes final and binding.

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CHAPTER IV
SPECIAL PROCEDURES

Mediation procedure, allocation agreement and other settlement agreements

Section 93 (1) If, for the purpose of settling an inheritance dispute or secondary inheritance dispute, the parties, within the time limit for proving they have initiated a court procedure, prove that they initiated a mediation procedure specified in a separate Act, instead of bringing an action, the notary shall, in the interest of concluding a settlement agreement to be approved by him, extend the time limit for initiating a court procedure by thirty days calculated from the date of expiry of the original time limit.

(2) If, during the extended time limit under paragraph (1), the mediation procedure ends with the parties submitting, within the extended time limit, an agreement to the notary for having it approved as a settlement agreement,

a) which is approved in whole or in part by the notary in respect of the whole or a part of the disputed value, the notary shall take action in accordance with the approved settlement agreement; the provisions under point *b)* and paragraph (4) shall be applied to the part that has not been approved;

b) which the notary rejects approving, or the mediation procedure is terminated without an agreement, which fact is certified by the certificate or the memorandum prepared by the mediator on closing the procedure without success and submitted to the notary, then the notary shall establish the expiry of the extended time limit and shall communicate the order on it to the parties in the dispute.

(3) In the cases under paragraph (2) *b),* or if the extended time limit expires without the mediation procedure being closed, the party entitled to bring an action may prove they have brought an action within eight days after the order establishing the expiry of the time limit is communicated or after the expiry of the extended time limit; the notary shall notify the parties on it *ex officio* upon the expiry of the time limit.

(4) The parties may amend their settlement agreement submitted to the notary for approval until it is approved, and they may submit the amended settlement agreement to the notary for approval until this date. In this case, the notary shall decide whether to approve the amended settlement agreement and shall take action accordingly.

Section 94 (1) The estate shall be distributed under the legal title of succession on the basis of an allocation agreement. This agreement shall be approved by the notary in a non-formal order, in an estate distribution order adopted by the notary and complying with the agreement, or, if the allocation agreement is against the law, the notary shall distribute the estate without regard to the allocation agreement.

(1a) The trustee under section 6 (6) shall be allowed to conclude an allocation agreement if the terms of the allocation agreement comply with the terms of the fiduciary asset management relationship established in the testamentary disposition. According to the allocation agreement, the part of the estate to which the trustee is entitled under the fiduciary asset management relationship established in the testamentary disposition shall be distributed to the trustee under section 6 (6) under the legal title of fiduciary asset management relationship established in the testamentary disposition.

(2) If, in the probate procedure, the party interested as heir transfers the whole or a part of the estate of property acquired by him under the legal title of succession, gift upon death or specific legacy to another party interested in the succession, to the heir upon disqualification or to the creditor of the estate, or recognises the claimant’s claim on an asset, originally held to be part of the estate, the notary shall incorporate these statements into a settlement agreement and shall make a decision on approving the settlement agreement. If the notary has approved the settlement agreement, the estate shall be distributed to the acquiring party under the legal title set in the allocation agreement; if the estate is transferred, the interim acquisition (succession, gifting upon death, specific legacy, fiduciary asset management relationship established by the testamentary disposition) of the transferor, who is the person interested as heir, shall be established.

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(3) If, in the probate procedure, the party interested as heir offers to the State of Hungary the inheritance of agricultural and forestry lands under the Act on agricultural and forestry land trade or farm and the related equipment, installations, livestock and work equipment acquired by the party interested as heir under the legal title of succession, gifting upon death, specific legacy or fiduciary asset management relationship, the gift shall be considered accepted, and the notary shall distribute the offered asset to the State of Hungary under the legal title of gifting, and the interim acquisition (succession, gifting upon death, specific legacy, fiduciary asset management relationship established by the testamentary disposition) of the gifter, who is the person interested as heir, shall be established.

(4) In the cases under paragraph (3), the rules on assigning property to co-heirs free of charge shall apply to the obligation of the heir to pay duty.

Section 95

Redemption of the right of the surviving spouse

Section 96 (1) The notary having territorial competence to proceed with the probate procedure of the testator shall have territorial competence to proceed with the procedure related to the claim for the redemption of the right of the surviving spouse. If the claim for the redemption of the right of the surviving spouse is submitted prior to the closure of the probate hearing, or in case of distributing the estate without hearing, prior to the adoption of the estate distribution order, the notary shall assess the claim in the probate procedure and shall distribute the estate according to it.

(2) The notary having territorial competence to proceed with the supplementary probate procedure shall have territorial competence, with the exception under section 97 (4), to proceed with the procedure related to a claim submitted after the date specified in paragraph (1); the provisions on the supplementary probate procedure shall apply accordingly in the procedure. If the parties fail to reach a settlement agreement on the redemption in the procedure, the notary shall terminate the procedure; the claim may thereafter be enforced before the court.

(3) The redemption of the right of the surviving spouse with regard to the supplementary probate estate may also be enforced in the supplementary probate procedure.

Section 97 (1) If a claim for the redemption of the right of the surviving spouse is submitted prior to the closure of the probate hearing, or in case of distributing the estate without hearing, prior to the adoption of the estate distribution order, the notary shall decide on it and shall distribute the estate accordingly; in the case under section 96 (2), the notary shall decide, according to section 12, on approving the settlement agreement between the parties.

(2) Regarding claims for the redemption of the right of the surviving spouse submitted prior to the closure of the probate hearing, or in case of distributing the estate without hearing, prior to the adoption of the estate distribution order, if there is no inheritance dispute between the heirs and the estate can be distributed with full effect, the notary shall decide in a separate order on redemption. For this purpose, the notary may conduct an evidentiary procedure according to the rules set forth in the Pp. on taking evidence. The notary shall distribute the estate with full effect after the separate order becomes enforceable, with due regard to the provisions of the separate order. If neither of the interested parties enforces his claim for the redemption before the court within thirty days after the separate order becoming final and binding, the notary's separate order shall become enforceable and any claim for redemption submitted thereafter shall be ignored. The legal consequences of starting a mediation procedure specified in a separate Act and of its results (section 93) shall apply accordingly to the calculation of the time limit of thirty days to bring an action and to the separate order of the notary becoming final and binding and to the amendment of such an order.

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(3) If there is an inheritance dispute between the heirs, the notary shall distribute the estate encumbered with the right of the surviving spouse to the heirs with provisional effect, in accordance with the general order of intestate succession. The interested party may enforce his rights related to redemption by bringing an action under section 114. However, if he does not enforce his claim within thirty days, the claim for redemption shall be ignored. The legal consequences of starting a mediation procedure specified in a separate Act (section 93) shall be applied accordingly to the calculation of the time limit of thirty days to bring an action.

(4) If the court decides on an inheritance dispute subsequently and this may result in a change in the division of the estate upon which the redemption is based, the claim for the redemption of the right of the surviving spouse may be submitted to the court not later than until the hearing preceding the adoption of the first instance decision is closed.

Procedure if an executor of the will is designated

Section 98 (1) The local government clerk and the notary, as soon as becoming aware of the fact that the testator has designated an executor of the will, shall notify the executor without delay and communicate the content of the will relating to him.

(2) The local government clerk or the notary, as soon as becoming aware of the identity of the executor of the will, shall notify the executor of his rights and obligations and shall call upon the executor to make a statement on accepting the commission. The commission shall be considered as accepted as soon as a statement to that effect is made before, and recorded in minutes by, the local government clerk or the notary, or a statement on acceptance incorporated in a private deed of full probative value or a public deed is received by the local government clerk or notary.

(3) If the executor of the will does not accept the commission according to paragraph (2) within thirty days after receiving the notification and the information, the commission of the executor shall be considered not to have been made in the probate procedure. No application for excuse may be accepted for missing this time limit.

(4) The local government clerk or the notary shall establish in an order whether the commission of the executor of the will was made; the order shall be communicated to the interested parties in the succession and, if the order was adopted by the local government clerk, to the notary as well.

(5) The order on the establishment of the commission of the executor of the will shall indicate the rights and obligations of the executor of the will under the will and the law. At the request of the executor, the notary shall prepare an excerpt of certain provisions of the order in the interest of the executor of the will exercising certain rights or performing certain obligations.

Section 99 (1) The testamentary disposition shall apply regarding the rights and obligations of the executor of the will; the executor shall perform his duty in line with the instructions of the testator and the rules of normal management. Different executors of the will may be designated for different duties. The executor of the will shall not be exempted from complying with the law by the testator's instruction contrary to the law; however, if the aim of the testator may be achieved by way of lawful conduct, the executor shall be obliged to do the latter instead of performing the unlawful instruction.

(2) If the will does not specify the rights and the obligations of the executor of the will, the executor shall be entitled and obliged to

a) assist the proceeding authorities in taking an inventory of the estate, and to initiate a protective measure being ordered to the benefit of the heirs, if necessary,

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b) claim from the heir and the legatee to carry out the provisions of the testamentary disposition, and to act before the court for this purpose in his own name in favour of the person benefiting from the testator's testamentary disposition until this person proceeds himself,

c) take possession of the estate under his power to manage the estate of property, and

ca) satisfy the creditors of the estate, in particular urgent payments, acting in his own name but charging the estate,

cb) enforce the claims of the estate, acting in his own name, but to the benefit of the estate,

cc) exercise the testator's membership rights in a business association (cooperative), transferred to the heir upon opening the succession,

d) carry out the provisions of the estate distribution order (including the partial estate distribution order) himself after it has become final and binding.

(3) In the course of performing his duties specified in paragraph (2) *c),* with regard to assets belonging to the estate, the executor of the will

a) shall not undertake any obligation and shall not alienate any asset, unless all interested parties in the succession have consented to it,

b) shall make arrangements free of charge that charge the estate.

(4) If the executor of the will is entitled or is required to satisfy the debts of the estate from the estate under the testamentary disposition, the executor of the will shall be entitled to avail of the asset (thing, right, claim) for and on behalf of those interested as heirs to the extent required for such satisfaction, in particular

a) to convey the asset to the creditor in order to satisfy the debt and

b) to sell the asset and to spend the counter-value originating from the sale on satisfying the debts of the estate.

(5) In order to comply with the provisions of paragraph (4), the executor of the will shall be entitled to take the asset into possession and to call upon those interested as heirs, who are otherwise entitled to avail of the assets, to give the asset into his possession within the deadline set in the notice. A deadline, the length of which is justified by the circumstances, shall be set with the proviso that the deadline shall be of ten days at least for a movable property, of twenty days at least for real estate and of three months at least for residential premises.

(6) The person interested as heir who is entitled to avail of the asset shall be required to release the asset to the executor of the will in compliance with the notice specified in paragraph (5) for the obligation under paragraph (4) to be satisfied, to facilitate taking the asset into possession, and to refrain from any conduct that would prevent the executor of the will from satisfying the obligation under paragraph (4).

(7) The failure to give the asset into possession shall not constitute an obstacle to selling the asset.

(8) The executor of the will, after having satisfied the debts of the estate in accordance with paragraph (4) and having conveyed or sold assets of the estate for the same purpose, shall be required to settle with the person interested as heir and to release the assets not having been used to satisfy the debts of the estate (or if the asset has already been sold then the part of proceeds of the sale that has been used to satisfy the debts of the estate) to the person who is otherwise interested in succession.

(9) The provisions of paragraphs (4) to (6) shall apply accordingly also if the testamentary disposition entitles or obliges the executor of the will, either with or without entitling or obliging him to satisfy the debts of the estate, to sell the estate or a certain part of the estate, a proportion of the estate or a certain asset of the estate and to release the counter-value of the

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sale to the person interested as heir in accordance with the provisions of the testamentary disposition.

Section 100 (1) Subject to derogations laid down in the Act, the provisions on agents shall apply accordingly to the executor of the will. If the tasks, rights and obligations of the executor of the will are specified in the testamentary disposition, the parties interested as heirs shall be allowed to instruct the executor of the will within the boundaries of section 99 (1); if the rights and obligations of the executor of the will are not specified in the testamentary disposition, the parties interested as heirs shall be entitled to instruct the executor of the will within the boundaries of section 99 (2).

(2) The executor of the will shall be liable according to the rules on extra-contractual liability for the damages caused to the interested parties in succession, in respect of the part pertaining to them, by his activity performed as executor.

(3) The heirs shall reimburse the reasonable expenses of the executor of the will. If the testator provides for a share in the estate to the executor of the will, unless provided otherwise in the relevant provision of the will, the value of that benefit shall not be included in the fee for performing the mandate.

Section 101 (1) The mandate of the executor of the will shall be terminated:

a) by the expiry of the respective time limit, upon the fulfilment of a condition specified in the testamentary disposition (including the fulfilment of the duty of the executor of the will), or, in the absence of provisions concerning the termination of the commission of the executor of the will, by the final and binding end of the probate procedure,

b) upon the death or termination of the executor of the will,

c) by resignation,

d) by the revocation of the mandate,

e) if the statutory conditions required for performing the mandate were not fulfilled, even at the time when the mandate was accepted, or have been terminated subsequently.

(2) The formal requirements on accepting the mandate of the executor of the will shall apply to the resignation of the executor; they shall take effect when received by the notary.

(3) The interested parties in the succession may, unilaterally, revoke the commission of the executor of the will in their consonant statement incorporated in the same document. The statement shall be submitted to the notary, who shall communicate it without delay to the executor of the will; the revocation shall take effect upon this communication.

(4) The notary may exempt, in the probate procedure, the executor of the will from performing certain dispositions of the testator, if it is jointly requested by the executor of the will, those interested in the succession and the person in whose favour the provisions should be performed.

(5) If the mandate of the executor of the will is terminated during the probate procedure, the local government clerk or the notary, with the exception of the cases under paragraph (1) *b)*, shall establish, in an order, the termination of the mandate at the request of any interested party. The notary shall establish in an order that the executor of the will is discharged from performing certain dispositions of the testator, specifying them in details; the order shall be communicated to the interested parties in succession and to the person in whose favour the provision must be performed. The notary may also decide on the question of discharge in his order closing the probate procedure on the merits. The existence or occurrence of the facts and circumstances necessary for establishing the termination of the mandate or the discharge shall be proved by a private deed of full probative value or a public deed.

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Probate procedure if there is a subsequent heir

Section 101/A (1) The probate procedure concerning the estate of the testator shall be conducted in accordance with the provisions of this Act, even if the estate contains an asset of which he, the testator, was a primary heir. This asset shall be distributed in the probate procedure to the primary heir as the estate of the testator who designated the subsequent heir.

(2) The debts burdening the estate of the primary heir shall also burden the subsequent inheritance, with the exception of the debts resulting from the primary heir exceeding the limits of his right of disposal under the Ptk. pertaining to the property passed onto him as primary heir.

Certificate of probate procedure

Section 101/B (1) The notary, at the request of the party interested in the succession, following the receipt of the estate inventory or the application for the issue of a certificate of succession shall certify in an order that a probate procedure or a procedure for issuing a certificate of succession is in progress at the notary concerning the estate of the testator, and the time of the commencement of the procedure before the notary.

Certificate of succession

Section 102 (1) At the request of the party who substantiates that the enforcement or the protection of his rights requires the order of succession after the testator to be certified, the notary shall establish, in a certificate of succession incorporated in a separate order, the order of succession (the person of the heir, the legal title and the share of his benefiting in the estate) in the whole or a part of the estate.

(2) A certificate of succession shall be issued if the inheritance case falls within the notary's international jurisdiction, and

a) no estate of property remained after the testator or estate of property remained only in a state falling outside the scope of Regulation (EU) No 650/2012 of the European Parliament and of the Council (for the purposes of this Chapter, hereinafter "third state"), or

b) an estate distribution order has not yet been adopted and the applicant proves

ba) the order of succession after the testator and

bb) if there is more than one party interested as heir, in addition to those specified in subpoint *ba)*, also the fact that there is no inheritance dispute as regards the order of succession between the parties interested as heirs.

(3) The notary, at the request of the party interested in the probate procedure or *ex officio*, shall set a hearing according to the general rules on the probate hearing, if hearing the interested parties becomes necessary for establishing the facts of the case necessary for issuing the certificate of succession. In other respects, the notary shall act according to the general rules in the interest of establishing the facts of the case necessary for issuing the certificate of succession and with respect to issuing the certificate of succession.

(4) If succession is bound to a condition, this fact shall be indicated in the certificate of succession. There shall be no reference to the condition if the condition was fulfilled before opening the succession.

(5) The notary shall be bound to the certificate of succession issued under paragraph (2) *b)* to the extent that the decision adopted by the notary upon an allocation agreement is required to comply with the certificate of succession, and in the estate (the part of the estate to which the certificate of succession is related), the right of the surviving spouse may only be redeemed in money.

(6) The provisions of this Act on the legal remedies related to the notarial procedures shall apply to the procedure for issuing the certificate of succession.

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(7) If a probate procedure is not yet in progress before the notary in Hungary concerning the estate of the testator, the procedure for issuing the certificate of succession shall be initiated at the local government clerk in accordance with the provisions of section 19.

Section 102/A (1) If the estate is distributed after the issue of the certificate of succession, the certificate of succession shall become ineffective upon the notary's estate distribution order with full effect, the order establishing that the estate distribution order with provisional effect has reached full effect or the order closing the procedure, which was, instead of an estate distribution order with full effect, adopted as a result of the court having adjudicated all claims affected by the estate distribution order with provisional effect becoming final and binding; the notary shall refer to this fact in the order, if he is aware of the certificate of succession.

(2) The certificate of succession becoming ineffective shall not affect the notary’s being bound to the certificate of succession according to section 102 (5).

European Certificate of Succession

Section 102/B (1) With the exception under paragraph (2), the issue of a European Certificate of Succession may be applied for after the estate distribution order with full effect, the estate distribution order with provisional effect having reached full effect, the order closing the procedure, adopted as a result of the court adjudicating all claims affected by the estate distribution order with provisional effect, and the order regarding the certificate of succession under section 102, becomes final and binding.

(2) The executor of the will and the administrator of the estate according to Regulation (EU) No 650/2012 of the European Parliament and of the Council (hereinafter in this subtitle “Regulation”), including the guardian *ad litem* under section 32 (2) and (3) and the party interested in the succession authorised under section 43/B, may also apply for the issue of the European Certificate of Succession before the date under paragraph (1) for the purpose of proving the provisions set out in Article 63 (2) *c)* of the Regulation are met.

(3) The notary proceeding with the probate procedure shall have territorial competence to assess the applications under paragraphs (1) and (2).

(4) The documents, from among those listed in Article 65 (3) of the Regulation, that have already been submitted in the probate procedure or that are already at the disposal of the notary need not be attached to the application.

Section 102/C (1) The notary shall decide in a separate order on the application for issuing a European Certificate of Succession.

(2) The notary shall, without delay, issue the European Certificate of Succession by using the form published in annex 5 to the Commission Implementing Regulation (EU) No 1329/2014 after the order granting the application becomes final and binding.

Attestation of succession for the purpose of enforcing claims in a third state

Section 102/D (1) At the request of the party interested in the succession, the notary shall establish, in an attestation of succession incorporated in a separate order, the order of succession after the testator (the person of the heir, the legal title and the share of his benefiting in the estate) in the whole or a part of the estate under Hungarian law, if

a) only estate located in a third state remained after the testator possessing Hungarian nationality, and

b) in accordance with Regulation (EU) No 650/2012 of the European Parliament and of the Council, none of the Member States of the European Union have jurisdiction regarding the inheritance case.

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(2) The attestation of succession shall serve for the enforcement of the inheritance claims of the party interested in the succession solely in the third state; this fact shall be referred to in the attestation. Based on such an attestation, no European Certificate of Succession shall be issued.

(3) For the procedure for issuing an attestation of succession, the provisions of section 102 (2) to (6) shall apply accordingly.

(4) If a probate procedure is not yet in progress before the notary in Hungary concerning the estate of the testator, the procedure for issuing the attestation of succession shall be initiated at the local government clerk in accordance with the provisions of section 19.

Supplementary probate procedure

Section 103 (1) If an asset belonging to the estate is found after the probate procedure is closed (hereinafter in this section "primary probate procedure"), a supplementary probate procedure may be performed. The rules of the probate procedure shall apply accordingly to the supplementary probate procedure.

(2) With the exception of disclaiming inheritance and waiving the right to disclaim inheritance, the statements made and the procedural acts performed in the primary probate procedure shall not affect the supplementary probate procedure.

(3) The notary shall arrange *ex officio* to obtain the documents of the primary probate procedure before adopting the estate distribution order.

Section 104

CHAPTER V

LEGAL REMEDIES RELATED TO THE NOTARY'S PROCEDURE

Repeating the probate procedure

Section 105 (1) The party interested in the succession may submit an application to repeat the probate procedure against the final and binding order closing the probate procedure on the merits, (including the estate distribution order with provisional effect, estate distribution order with full effect, estate distribution order with provisional effect having reached full effect and certificate of succession), with the exception of the estate distribution order with provisional effect not having reached full effect, if invoking a fact which was not assessed in the probate procedure, provided that the assessment of this fact, if assessed, could have resulted in changes in the order of succession or the legal title of the succession or the shares in the estate.

(2) The application shall be recorded in minutes by, or submitted in writing to, the notary who adopted the order on the merits within one year after the estate distribution order with full effect, the order establishing that the estate distribution order with provisional effect has reached full effect or the certificate of succession becomes final and binding; no application for excuse may be accepted for missing this time limit.

(3) If the conditions for both repeating the probate procedure and conducting a supplementary probate procedure are met, the claims to be enforced in the supplementary probate procedure shall be enforced in the repeated probate procedure.

(4) If the conditions for both repeating the procedure for issuing a certificate of succession and for repeating the probate procedure are met, no separate order shall be adopted on the application for the procedure for issuing a certificate of succession; it shall be assessed in the repeated probate procedure.

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Section 106 The guardianship authority may also submit the application for repeating the probate procedure within the time limit open to do so if the party interested in the succession is

a) a foetus, a minor or a person under custodianship affecting capacity to act,

b) a person whose whereabouts are unknown, or

c) a person otherwise prevented from administering his own affairs.

Section 107 (1) The order closing the probate procedure on the merits against which the application is submitted and the fact giving grounds for amending that order, as well as the evidence for it shall be indicated in the application for repeating the probate procedure or for the procedure for issuing the certificate of succession.

(2) The notary shall examine *ex officio* the preconditions of repeating the probate procedure and shall adopt a separate order on the admissibility of the procedure (on ordering the probate procedure or the procedure for issuing the certificate of succession to be repeated or on dismissing the application) within thirty days upon receiving the application. If the application is incomplete, this time limit of thirty days shall be counted from when the deficiencies are remedied, or, if the time limit for remedying deficiencies has expired without result, from the expiry of the time limit.

(3) In the order ordering the probate procedure to be repeated, the notary may also decide to order a protective measure with regard to an asset which was distributed in the estate distribution order and is still owned by and kept in the possession of the party to whom it was distributed by the estate distribution order; the general rules of probate procedure shall apply to the repeated procedure in other respects.

Section 108 (1) On the basis of the result of the repeated procedure, the new order of the notary shall uphold the effect of the order closing the earlier probate procedure on the merits, or overturn that order in whole or in part and shall render an order, different from the earlier order, closing the probate procedure on the merits.

(2) The notary shall request the real estate authority to delete from the real estate register the record on the fact of launching a repeated probate procedure if the procedure

a) was terminated by the notary, or closed by notary with an estate distribution order with full effect or one with provisional effect having reached full effect which has not resulted in any change regarding the rights and legally significant facts recorded in the real estate register as compared to the state of the real estate registered therein,

b) was closed by the notary with an estate distribution order with provisional effect, and the statement of claim proving that an inheritance action that has been brought does not contain an application for recording the fact that an action has been brought, or

c) was closed by the notary with an estate distribution order with full effect or one with provisional effect having reached full effect, upon which no change can be recorded in the real estate register, and the statement of claim, submitted within thirty days of the estate distribution order becoming final and binding, to bring an action concerning ownership related to the real estate, does not contain an application addressed to the court to request the real estate authority to record the action at the rank where the fact of repeated probate procedures are to be recorded.

(3) The plaintiff may prove at the notary that the condition of deletion under section (2) *c)* is not met, by presenting the statement of claim received by the court within eight days of the expiry of the time limit specified therein. In the absence of the above, the notary shall request the real estate authority to delete the record on the fact that a repeated probate procedure has been launched from the real estate register.

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(4) The notary shall also request the real estate authority to delete from the real estate register the record on the fact that a repeated probate procedure has been launched, if, within forty-five days after the statement of claim was received by the court, the court action under paragraph (2) *b)* and *c)* is not recorded in the real estate register at the rank where the fact of repeated probate procedures is to be recorded, including the record of a pending request.

(5) The notary shall inform the party bringing the action, if he failed to submit a request for recording or has no legal representative, of the possibility of the repeated probate procedure to be recorded in the real estate register, the legal consequences of recording and the means of deletion.

Appeal

Section 109 (1) An appeal may be lodged against

a) the estate distribution order with provisional effect,

b) the estate distribution order with full effect,

c) the order establishing that the estate distribution order with provisional effect reached full effect,

d) the order under section 89,

e) the order concerning an application for issuing a certificate of succession,

f) the order establishing procedural costs and ordering the bearing of them, and

g) the order imposing a fine

adopted in the probate procedure.

(2) The notary himself may amend the order on the protective measure in whole or in part in accordance with the appeal.

(3) The notary shall, upon request or acting in his own discretion, amend or overturn his order granting the appeal for issuing a European Certificate of Succession, if the condition under Article 71 (2) of the Regulation (EU) No 650/2012 of the European Parliament and of the Council is fulfilled.

(4) In the case specified in paragraph (3), the notary may, upon request, suspend the effect of the European Certificate of Succession until the adoption of the order amending or overturning the order on granting the application for issuing the European Certificate of Succession.

Section 110 (1) With the exception under paragraph (2), no appeal shall lie against other orders issued by the notary in the course of the probate procedure.

(2) In the course of the probate procedure, an appeal may be lodged against the order

1. rejecting or dismissing the request to launch a probate procedure,

2. rejecting or dismissing the request to take an on-site inventory,

3. on a protective measure,

4. on establishing that the appointment of the executor of the will is established or is not established, is terminated; or rejecting or dismissing the application to establish termination,

5. discharging the executor of the will from performing certain directions of the testator or rejecting or dismissing the application for discharge,

6. suspending the probate procedure,

7. approving a settlement agreement,

8. terminating the probate procedure,

9. on repeating the probate procedure,

10. rejecting the request for a hearing,

11. on the redemption of the right of the surviving spouse,

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12. on permitting that an asset in the estate be realised and that cash placed in court or notarial deposit be released in the interest of paying the costs of the distribution of the estate and the inheritance duty in the case of distributing the estate with temporary effect,

13. on recording the repeated probate procedure in the real estate register.

14. concerning the claims for the property, property part or asset taken into the inventory submitted by the surviving spouse or former spouse of the testator under the legal title of matrimonial community of property or by the surviving cohabitant or former cohabitant of the testator under the legal title of a share in the community of property acquired during cohabitation,

15. on the fiduciary asset management relationship established on the testamentary disposition,

16. on the establishment of a statutory lien under section 75, or

17. rejecting an appeal.

(2a) An appeal may be lodged against the order

a) concerning the application for issuing a European Certificate of Succession,

b) on amending or overturning the order granting the application for issuing a European Certificate of Succession,

c) on suspending the effect of the European Certificate of Succession.

(3) The appeals under paragraph (2) and paragraph (2a) *c)* shall have no suspensory effect on the enforcement of the order.

(4) The order dismissing the motion for evidence may be challenged in the appeal against the order closing the procedure.

Section 111 (1) An appeal may be lodged by the party interested in succession, and by the person subject to any provision of the order against the part affecting him.

(2) The guardianship authority may also appeal against the order of the notary, if the party interested as heir is

a) a foetus, a minor or a person under custodianship affecting capacity to act,

b) a person whose whereabouts are unknown or

c) a person otherwise prevented from administering his own affairs.

Section 112 The right to appeal may not be waived in advance. The statutory representative of a natural person, the guardian, the *ad hoc* guardian, the *ad hoc* custodian and the guardian *ad litem* shall not be entitled to waive the right to appeal on behalf of the person represented by him, even after the communication of the order.

Section 113 (1) With regard to legal remedies, the order of the notary shall have the same effect as the order issued by the district court.

(2) The appeal against the notary's order shall be submitted to the notary having adopted the order and it shall be addressed to the regional court.

(3) No review may be granted against an order concerning the distribution of the estate.

CHAPTER VI

INHERITANCE ACTION AND THE LEGAL REMEDIES RELATED TO THE NOTARY'S PROCEEDINGS

Inheritance action

Section 114 An inheritance action shall be brought within thirty days after the estate distribution order with provisional effect becomes final and binding. Bringing an action shall be proved by the eighth day after the expiry of the time limit at the latest to the notary by presenting the statement of claim received by the court with territorial jurisdiction or by any

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other dependable means. The action shall be brought against the party whose benefiting from the estate is the subject of the inheritance dispute or the secondary inheritance dispute. If the claim can only be enforced in an order for payment, the rules on initiating an order for payment procedure shall apply accordingly to bringing an inheritance action.

Legal remedies related to the notary's procedure

Section 115 (1) The rules on legal remedies against the notary's order shall apply to legal remedies against orders other than those of the notary in the course of taking an inventory of the estate, subject to the derogation that

a) the appeal shall be submitted to the local government clerk,

b) the order can be amended, in whole or in part, by the local government clerk in accordance with the appeal, but if the local government clerk fails to grant the appeal or grant it only partly within three days, the order shall be sent it to the notary without delay, who, if not granting it within three days, shall submit it to the court

(2) In the course of adjudicating the appeal, the court shall follow the rules on adjudicating an appeal against the notary's order.

CHAPTER VII

DATA PROCESSING

Section 116 (1) For the purpose of carrying out the probate procedure, the local government clerk and the notary may process the following personal data of the testator:

a) natural identification data,

b) last domicile and place of residence in Hungary,

c) nationality,

d) place and date of death,

e) family status,

f) data relating to the occupations listed in section 28,

g) the fact of being under custodianship.

(2) For the purpose of carrying out the probate procedure, the local government clerk and the notary may process the following personal data of natural persons interested in the probate procedure:

a) natural identification data,

b) domicile and place of residence,

c) contact data (telephone, telefax, e-mail) provided by the party voluntarily in case of emergency,

d) the cause giving grounds for his interest in the procedure (based on a testamentary disposition, connection with a relative or another legal relationship),

e) the statutory representative's data specified in points *a), b)* and *c)* if the party interested in the succession is a foetus, a minor, an adult under custodianship affecting capacity to act, a person whose whereabouts are unknown or a person prevented from administering his own affairs.

(3) The local government clerk and the notary may, for the purpose of carrying out the probate procedure, process the name, address and the contact data (telephone, telefax, e-mail), provided by him voluntarily in case of emergency of the representative of the party interested in the probate procedure (provided that he proved his right of representation).

Section 117 (1) For the purpose of carrying out the probate procedure, the local government clerk and the notary may process the following personal data of those contributing in the probate procedure:

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a) the natural person's

aa) natural identification data,

ab) domicile and place of residence,

ac) contact data (telephone, telefax, e-mail) provided by him voluntarily in case of emergency, or

b) name, address and the contact data (telephone, telefax, e-mail), provided voluntarily in case of emergency, of the representative of a party other than a natural person (if having proved the right of representation).

(2) For the purpose of carrying out the probate procedure, the local government clerk and the notary may process the following personal data of the person having custody of the written testamentary disposition of the testator or of the person having knowledge of his oral will, and of his custodian (if the testator was under custodianship):

a) the natural person's

aa) natural identification data,

ab) domicile and place of residence,

ac) contact data (telephone, telefax, e-mail) provided by him voluntarily in case of emergency, or

b) name, address and the contact data (telephone, telefax, e-mail), provided voluntarily in case of emergency, of the representative of a party other than a natural person (if having proved the right of representation).

Section 118 (1) For the purpose of establishing the testator's data that can be processed under this Act and verifying the relevant data available, the local government clerk and the notary may request data from the register of personal and residential data and from the civil register.

(2) The local government clerk and the notary may request data from the register of the individuals under custodianship, for the purpose of establishing whether the testator was under custodianship and verifying the relevant data available, in order to establish whether the testator is registered therein and to establish who his custodian is (name, address, other contact details).

(3) For the purpose of establishing the testator's property and verifying the relevant data available, the local government clerk and the notary may request data directly from the electronic real estate register, the register of assets bearing a unique identification mark (registered asset) and from the register of liens and the security interest register.

(4) For the purpose of establishing the data, which can be processed under this Act, of a known or unknown party interested in succession and of verifying the relevant data available, the local government clerk and the notary may request data from the register of personal and residential data and from the civil register.

(5) For the purpose of establishing the identicalness between the data available in the probate procedure and the data recorded at the payment service provider, investment service provider, voluntary mutual pension, health and mutual funds, or insurers (hereinafter jointly "service provider"), and in the interest of establishing the property belonging to the estate, the local government clerk and the notary may request data from the service providers concerning the testator's property handled by them.

(6) If data indicating that the testator designated a beneficiary in the event of death becomes available in the course of a procedure, the financial institution shall be obliged to provide data required for calculating the base of the compulsory share specified in a request of the notary.

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Section 118/A When delivering the request for access to information under section 118 (5), the notary, and when sending the response to the request to the notary, the service provider subject to the request shall use the national chamber's integrated computer system available to notaries and service providers as well (hereinafter "requesting system").

(2) The notary's request for access to information under section 118 (5) and the contents of the response to that request shall be entered and recorded in the requesting system. The data recorded in the requesting system shall be processed by the notary in order to ensure that the information available is identical to the information on the records of the service provider, to establish the property that belongs to the estate and to fasten the probate procedure. The national chamber shall also be authorised to process the encrypted data that were recorded in the requesting system, without encryption being terminated/dissolved, in connection with the operating the requesting system.

(3) The requesting system shall ensure using encryption that only those who, by virtue of an Act, are authorised to access the data of the procedure have access to the data generated in the case and processed in the requesting system. For the purpose of this Act, encryption means rendering the disclosed information and data inaccessible by ensuring that the information and data are accessible only by using a technical solution that is specified in advance or can be specified in advance.

(4) The requesting system shall enable the notaries and service providers (hereinafter jointly "users") to carry out the operations after they have proved their identities, and shall log the operations. The employees of the notary (or of the notarial office) shall also be authorised to record in the requesting system the data of submissions after proving their identities.

(5) The national chamber shall keep the requests recorded in the requesting system, the requests to be delivered and the delivered requests for thirty days; and the electronic delivery receipts required to prove that the requests were sent and delivered, as well as data serving to describe the data of the request and record the characteristics of the requests (metadata) for ten years.

(6) The request shall be deleted within thirty days of its delivery or of the date when the request is deemed delivered under the presumption of service. The electronic data generated by the requesting system shall be archived, and the national chamber shall archive the electronic documents for ten years.

(7) The requesting system shall be fit for the purposes of:

a) sending the requests of notaries to the service providers through the user interface of the requesting system, bearing official electronic signatures and time stamps, in a specified form, to those belonging to the specified circle of addressees;

b) sending the requests of service providers to the notaries through the user interface of the requesting system, bearing official electronic signatures and time stamps, in a specified form, to those belonging to the specified circle of addressees.

(8) The requesting system shall be fit for verifying whether the requests to be delivered meet information technology compliance and, indicating the detected errors, for issuing an automated warning to remedy such errors.

Section 118/B (1) The requesting system shall be continuously available, except during maintenance.

(2) The notaries shall be notified of malfunctions in the operation of the requesting system and the termination of the malfunctions in electronic mails, and users wishing to use the services during the malfunction shall be notified it in electronic mails when they attempt to use requesting system.

(3) The day on which the requesting system was prevented from operating by a malfunction for at least four consecutive hours shall not be counted in the deadline set in the Act.

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(4) For the purpose of this Act, maintaining activities and planned downtime of the requesting system which limit users in or prevent users from using the requesting system shall be deemed malfunctions.

(5) The user shall be required to have a device capable of generating advanced electronic signatures, a contract for time stamp services and cryptographic and authentication certificates.

CHAPTER VIII

FINAL PROVISIONS

Authorisations

Section 119 The minister responsible for justice shall be authorised to establish in a decree

a) the system of probate case allocation between notaries operating in the same territorial competence,

b) the data content of the estate inventory form and of the certificate of probate procedure, and the method of publishing the form,

c) the assets that can be taken into notarial deposit in the course of the probate procedure and the rules of managing deposits,

d) in agreement with the minister responsible for public finances, the expenses, fees and costs chargeable in connection with carrying out a protective measure ordered in the probate procedure, as well as the method of advancing and paying for them,

e) in agreement with the minister responsible for public finances, the fees and chargeable costs of the impoundment administrator, guardian *ad litem*, *ad hoc* guardian and *ad hoc* custodian, as well as the method of paying for them,

f) in agreement with the minister responsible for public finances, the amount of the fee payable for the non-certified copies of the documents of the probate procedure, as well as the method of paying for them,

g) the detailed rules on providing information from the electronic register of public notices issued in probate procedures, and, in agreement with the minister responsible for public finances, the fee payable for recording public notices in the register of public notices and for their publication, as well as the method of paying for it,

h) the detailed procedural rules relating to taking the estate inventory.

Section 119/A Section 19 (3a), section 43/A and section 43/B, section 57 (1) *d)*, section 78, section 81/A, section 101/B, section 102/B and section 102/C, section 109 (3) and (4), and section 110 (2a) of this Act establish the provisions necessary for the implementation of Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

Entry into force

Section 120 (1) With the exception specified in paragraphs (2) to (5), this Act shall enter into force on the fifteenth day following its promulgation.

(2) Section 122 and section 124 shall enter into force on 2 June 2010.

(3) Sections 1 to 10, section 11 (1) to (3) and (5), sections 12 to 119 and section 121 shall enter into force on 1 January 2011.

(4) Section 125 shall enter into force on 2 January 2011.

(5) Section 11 (4) and section 23 (2) shall enter into force on 1 January 2015.

(6) Sections 122 to 125 shall be repealed on 3 January 2011.

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Transitional provision

Section 121 The provisions of this Act shall apply to probate procedures launched after 31 December 2010.

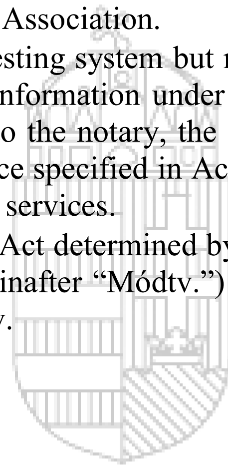
Section 122 If the local government clerk or the notary has not undertaken to perform electronic administration under section 108 (2) of the Act CCXXII of 2015 on the general rules on electronic administration and trust services then, before 1 January 2018, the provisions of the Act on the service of documents as in force on 31 December 2016 shall apply until 31 December 2017 with regard to the local government clerk or notary concerned.

Section 123 The Hungarian Bar Association shall hand over the registered data, effective as of 31 December 2017, concerning testamentary dispositions placed in the Archives of the Hungarian Bar Association to the national chamber keeping the National Register of Wills; the national chamber shall organise the recording of the data.

Section 124 For the purpose of data verification, the national chamber shall transfer to the Hungarian Bar Association the data, recorded in the National Register of Wills, of testamentary dispositions prepared or taken into deposit by attorneys-at-law in the interest of the Hungarian Bar Association arranging for the placement of these testamentary dispositions in the Archives of the Hungarian Bar Association.

Section 125 Until joining the requesting system but no later than 31 December 2018, when delivering the request for access to information under section 118 (5), the notary, and when sending the response to the request to the notary, the service provider subject to the request shall use the electronic correspondence specified in Act CCXXII of 2015 on the general rules on electronic administration and trust services.

Section 126 The provisions of this Act determined by Act CXVII of 2019 amending certain Acts related to judicial matters (hereinafter “Módtv.”) shall apply to procedures commenced after the entry into force of the Módtv.



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