THE SWEDISH CODE OF JUDICIAL PROCEDURE

Ds 1998:000

PREFACE

The Swedish Code of Judicial Procedure was promulgated in 1942 (SFS 1942:740) and came into force on 1 January 1948.

A translation of the Swedish Code of Judicial Procedure as amended up to January 1, 1967 was published in 1968 as Volume 15 in The American Series of Foreign Penal Codes. The translation was made by Anders Bruzelius and Ruth Bader Ginsburg. An uppdated Revised Edition, edited by Anders Bruzelius and Krister Thelin, was published in 1979 as Volume 24 in the same series.

This version is a complete and comprehensive review and update of the above mentionned translations. It takes into account the amendments of the Code in force as of 1 Januari 1999 (SFS 1998:605). The work was undertaken by the lawyer and translator James Hurst (English Law Translations)

The publication by the Swedish Ministry of Justice is made with the permission of former Judge Anders Bruzelius, Justice Ruth Baader Ginsburg, Judge Krister Thelin and the New York University.

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PART ONE

ORGANIZATION OF COURTS

Chapter 1

GENERAL LOWER COURTS

Section 1

The district courts are general lower courts and, unless otherwise prescribed, courts of first instance.

The court districts are the territorial jurisdiction of the district courts. The division of the country into court districts is prescribed by the government. (SFS 1974:573)

Section 2

Each district court shall have a chief judge and, unless otherwise prescribed by the government, one or more ordinary judges. In district courts designated by the government, there shall also be one or more senior judges. Chief judges, senior judges, and ordinary judges shall be legally qualified.

A district court may be divided into divisions. The chairperson of a division is the chief judge or a senior judge.

Each district court shall have a registry open to the public at fixed times. (SFS 1979:166)

Section 3

The district courts, unless otherwise prescribed, shall consist of one legally qualified judge. (SFS 1989:656)

Section 3a

At main hearings in civil cases, the district court shall consist of three legally qualified judges, unless otherwise prescribed.

When a main hearing is held in simplified form, the bench shall consist of one legally qualified judge.

At main hearings other than those referred to in the preceding paragraph, one legally qualified judge constitutes a quorum, if the court considers it sufficient and the parties consent thereto or the case is simple in character.

If the bench consists of three legally qualified judges and, after the commen-cement of the main hearing, one of them is excused, the remaining two judges constitute a quorum. (SFS 1989:656)

Section 3b

At main hearings in criminal cases in the district courts the district court shall consist of one legally qualified judge and three lay judges, unless otherwise prescribed. If one of the lay judges is prevented from adjudicating after the commencement of the main hearing, the bench constitutes a quorum with one legally qualified judge and two lay judges.

At main hearings in criminal cases concerning offences in respect of which the most severe penalty prescribed is a fine or imprisonment for a term of not more than six months, a legally qualified judge, without lay judges, constitutes a quorum, provided that there is no

reason to impose any sanction other than a fine and that a corporate fine is not at issue.

If there is good reason, the number of qualified judge may be increased with one in addition the that provided by the first paragraph. This also applies as regards the number of lay judges. If one or more of the members are prevented from adjudicating after the commencement of the main hearing, the first paragraph second sentence applies as regards a quorum. (SFS 1997:391)

Section 3c

When determining cases without a main hearing and when considering questions relating to the proceedings, the court may be constituted as at a main hearing if there is special reason therefor, having regard to the character of the case or issue. (SFS 1989:656)

Section 3d

In civil cases amenable to out of court settlement, the district court shall consist of a single legally qualified judge, if the value of the claim obviously does not exceed half of the base amount according to the National Insurance Act (1962:381).

The preceding paragraph does not apply if, when a party first makes a statement in the case, that party requests application of the general rules and demonstrates that the underlying dispute is likely to involve a larger amount in dispute or that adjudication of the matter is of extraordinary importance for the determination of other legal relationships in issue. If the action was commenced by an application for summary proceedings for an order to pay, the party requesting adjudication by the district court shall at the latest present the claim just stated with that request.

Value of the claim under the first paragraph means the value prevailing at the time of commencement of the action. If the action

was instituted by an application for summary proceedings for an order to pay or summary proceedings for assistance, or as a private claim appended to a criminal case, the value is set as of the time when the court decides that the dispute should be adjudicated as a regular civil case. Litigation costs shall not be taken into account for the purposes of the evaluation. (SFS 1991:847)

Section 3e

Measures relating only to the preparation of a case and which are not of such a kind that they ought to be dealt with by a legally qualified judge, may be conducted by other officers of the district court possessing sufficient knowledge and experience. Further provisions concerning this are issued by the government.

The provisions of Chapter 4 Section 13 also apply to officers other than judges when conducting measures under the first paragraph. (SFS 1993:512)

Section 4

The government or the authority designated by the government decide how many lay judges shall serve in each court district.

The district court shall allocate duties among the lay judges after consultation with them. (SFS 1983:370)

Section 5

A district court shall have its registry at the place decided by the government. The district court shall hold its court at that place unless the government decides otherwise and may also have a court at another place if the government so decides. (SFS 1995:495)

Section 6

District courts shall hold sessions as often as required by the work. Sessions for main hearings (*ting*) shall be held at the normal location, unless there are special reasons to hold the session at another place. (SFS 1975:502)

Section 7

Repealed by SFS 1990:443.

Section 8

In addition to what is prescribed by Section 3b, when determining extensive or otherwise especially demanding public prosecutions, in which the adjudication of financial or fiscal matters is of considerable importance, special members, individually or jointly, may complement the bench as follows:
1. a person appointed as a financial expert under Chapter 4, Section 10a, if there is a need for such expertise on the bench as regards financial matters; and
2. a person who is or has been a legally qualified judge of a general administrative court, if there is a need for expertise in fiscal matters on the bench.

If one or several of the members of the bench are prevented from adjudicating after the commencement of the main hearing, Section 3b, paragraph 1, second sentences applies to the question of a quorum. However, the court may not consist of more legally qualified judges than lay judges. (SFS 1997:391)

Section 9

In the absence of extraordinary reason, no more cases may be assigned for main hearing on the same day than may be expected to be concluded within a time period of six hours. When a main

hearing cannot be concluded on the day of its commencement, the session shall continue during the required number of consecutive working days. However, if it can occur without inconvenience a recess of the proceedings may take place, for the duration of the session, for a maximum of two, or if there is special reason, three working days in one week. (SFS 1987:747)

Section 10

Repealed by SFS 1975:502.

Chapter 2

COURTS OF APPEAL

Section 1

The courts of appeal have jurisdiction in appeals from general lower courts. Each court of appeal has supervisory authority over courts subordinate to it.

Section 2

The courts of appeal shall function as courts of first instance in cases concerning liability or private claims based on offences committed in the exercise of official authority by a judge of a lower court or a judge handling registration matters or a person appointed to deal with registration matters at a registration authority.

The courts of appeal also serve as courts of first instance in cases where such function is prescribed by law. (SFS 1987:681)

Section 3

Each court of appeal shall have a president, one or more heads of division and judges of appeal. They shall be legally qualified.

Each court of appeal shall be divided into two or more divisions. Each division shall consist of the president, or a head of division, as a chairperson, and at least three judges of appeal, one of whom shall be the deputy chairperson.

Each court of appeal shall have a registry open to the public at fixed times. (SFS 1969:244)

Section 4

In the court of appeal, three legally qualified judges constitute a quorum. However, in cases appealed from district courts, at least four legally qualified judges shall sit for the adjudication of the case, if the district court consisted of three legally qualified judges. If one of the legally qualified judges is prevented from adjudicating after the commencement of the main hearing, the bench nevertheless constitutes a quorum. No more than five legally qualified judges may sit on a court of appeal.

In criminal cases, instead of the provisions in the first paragraph, three legally qualified judges and two lay judges constitute a quorum. If one of the legally qualified judges and one of the lay judges are prevented from adjudicating after the commencement of the main hearing, the bench nevertheless constitutes a quorum. No more than four legally qualified judges and three lay judges may sit. If there is no reason to impose a sanction more severe than fines and, corporate fines are not at issue, the court may also be constituted as stated in the first paragraph. The same applies to proceedings other than main hearings.

In deciding questions of leave to appeal, the court of appeal shall consist of two legally qualified judges.

In deciding questions of removal of cases from further action following withdrawal, one legally qualified judge shall constitute a quorum in the court of appeal.

Measures relating only to the preparation of a case may be conducted by one legally qualified judge or, if they are not of such a kind that they ought to be dealt with by a legally qualified judge, be conducted by another officer of the court of appeal possessing sufficient knowledge and experience. Further provisions concerning this are issued by the government.

The provisions of Chapter 4 Section 13 also apply to officers other than judges when conducting measures under the fifth paragraph. (SFS 1997:391)

Section 4a

In addition to what is prescribed by Section 4, special members, individually or jointly, may complement the bench as follows:
1. a person appointed as financial expert under Chapter 4, Section 10a, if there is a need for special expertise in the court of appeal as regards financial matters;
2. a person who is or has been a legally qualified judge of a general administrative court, if there is a need for special expertise in fiscal matters in the court of appeal. (SFS 1985:415)

Section 4b

The government or the authority designated by the government shall decide how many lay judges from the territorial jurisdiction of each court of appeal shall serve in the court of appeal.

The court of appeal shall allocate duties among the lay judges after consultation with them. (SFS 1985:415)

Section 5

A court of appeal shall hold sessions at the place where its seat is located. A court of appeal may also hold sessions at another place, if there is good reason to do so.

Sessions shall be held as often as required by the work. (SFS 1993:514)

Section 6

The Realm's courts of appeal are: the Svea Court of Appeal, the Göta Court of Appeal, the Scania and Blekinge Court of Appeal, the Court of Appeal for Western Sweden, the Court of Appeal for Southern Norrland, and the Court of Appeal for Northern Norrland.

The territorial jurisdiction for each of the courts of appeal is prescribed by the government. (SFS 1974:573)

Section 7

Repealed by SFS 1975:502.

Chapter 3

THE SUPREME COURT

Section 1

The Supreme Court has jurisdiction in appeals from the courts of appeal. (SFS 1974:573)

Section 2

Chapter 8, Section 8 makes provision for appeals in certain cases to the Supreme Court from decisions of the board or another organ of the Swedish Bar Association. (SFS 1974:573)

Section 3

The Supreme Court functions as a court of first instance in cases concerning liability or civil claims based on offences committed in the exercise of official authority by a Minister, a Justice of the Supreme Court the Supreme Administrative Court, any of the Parliamentary Ombudsmen, the Chancellor of Justice, the Prosecutor-General, a judge or Attorney-General of the European Court of Justice, a judge of the Court of First Instance of that Court or anyone who discharges the duties of such offices, or by a judge of a court of appeal, or a judge referee of the Supreme Court.

Further, the Supreme Court acts as a court of first instance to determine whether a Justice of the Supreme Court or of the Supreme Administrative Court should be discharged or suspended from office or should be required to submit to medical examination. The Supreme Court also serves as a court of first instance in cases where such is prescribed by law. (SFS 1995:315)

Section 4

The Supreme Court consists of sixteen justices or such higher number as may be necessary. The justices shall be legally qualified. They may not hold or exercise any other office.

The government appoints one of the justices to be the chairperson of the Court.

The Supreme Court shall be divided in two or more divisions. The divisions have the same competence to deal with cases falling to be dealt with by the Supreme Court.

The chairperson of the Supreme Court is also the chairperson of one division. The government appoints a justice to be chairperson of the other division.

The justices are assigned to serve in the divisions for a certain time period according to principles laid down by the Supreme Court. (SFS 1972:147)

When a justice, owing to illness or comparable circumstances, is unable to serve in the Supreme Court, a justice who has retired with an old age pension may be appointed as temporary substitute. Substitutes are subject to the laws and regulations applicable to justices. (SFS 1996:157)

Section 5

During the deliberation concerning a judgment or order, if a division of the Supreme Court finds that the opinion prevailing in the division diverges from a legal principle or a construction of law previously adopted by the Supreme Court, the division may direct that the case in its entirety or, if it is feasible, only a certain issue in the case, shall be adjudicated by the Supreme Court as a full court of judges or by nine members of the Court. Such a decision may

also be made in other situations in which it is of special importance for the application of law that the case or a certain issue in the case be decided by the Supreme Court as a full court of judges or by nine members of the Court. When a case is considered by nine members, the case or issue shall be referred to the Court as a full court of judges, if at least three out of the nine members so request.

If in different judgments or decisions known to the division, inconsistent opinions as to a certain legal principle or construction of law have been expressed at different times in the Supreme Court, the rule in the first sentence of the first paragraph shall apply only when the division finds that its prevailing opinion diverges from the judgment or decision pronounced most recently.

The first paragraph does not apply in cases concerning persons in detention and in other cases in which expedited adjudication is required by special provision, if the case cannot be decided by the Supreme Court as a full court of judges or by nine members without disadvantageous delay.

When a case or an issue is decided by the Supreme Court sitting as a full court of judges, in the absence of legal excuse, all of the justices should take part in the adjudication. (SFS 1996:157)

Section 6

Five justices constitute a quorum in a division of the Supreme Court. No more than seven justices may sit in the court.

If the dispute is of a simple character, three justices shall constitute a quorum of the division to determine:
1. issues of remand and travel prohibition referred to in Chapter 55, Section 8, paragraph 2, third sentence;
2. applications for relief for a substantive defect or for restoration of expired time; or
3. an appeal concerning grave procedural errors.

Where the Supreme Court previously has denied the same applicant's request for relief for a substantive defect in the same determination, and the applicant
states nothing new of importance for disposal of the request, one justice of the division constitutes a quorum if the request is rejected or dismissed.

Issues of leave to appeal may be determined by one justice. No more than three justices may take part in the decision. However, issues of leave to appeal that have been stayed pursuant to Chapter 54, Section 11, paragraph 2, are determined by the justices trying the case.

One justice of constitutes a quorum for a division of the Supreme Court to determine:
1. issues concerning removal from further action of cases after withdrawal;
2. issues concerning removal from further action of an appeal to the Supreme Court;
3. issues of consolidation of cases under Chapter 14, Section 7a; and
4. an appeal from a court of appeal’s decision to dismiss referred to in Chapter 54, Section 17;
5. issues referred to in Chapter 55, Section 8, paragraph 2, first and second sentences. (SFS 1996:157)

Section 7

When a division of the Supreme Court deals with an application for relief for a substantive defect, or with an appeal concerning a grave procedural error in a case determined by the Court, no justice who participated in the previous determination may serve in the division, if a sufficient number of justices is nevertheless available in the Court. (SFS 1994:1034)

Section 8

Special officers shall serve the Court to prepare and report on cases in the Supreme Court. (SFS 1985:934)

Chapter 4

JUDGES

Section 1

The legally qualified judges shall be Swedish citizens, and shall have passed the professional examinations prescribed for qualification for judicial office.

No person who is in the state of bankruptcy or has an administrator under the Code on Parents, Guardians and Children, Chapter 11, Section 7, may exercise the judicial office.

The professional examinations and other conditions for judicial office are prescribed by the government. (SFS 1988:1260)

Section 2

The judges referred to in Chapter 1, Section 2; Chapter 2, Section 3; and Chapter 3, Section 4, paragraph 1, are appointed by the government. (SFS 1991:1819)

Section 3

Repealed by SFS 1964:646.

Section 4

Regulations concerning leave for the legally qualified judges of the courts of appeal and the lower courts, and the assignment of substitutes in their stead, are prescribed by the government. (SFS 1974:573)

Section 5

The lay judges are elected.

If a court district covers more than one municipality, the district court shall divide the number of lay judges among the municipalities in proportion to their population.

The government or the authority designated by the government shall decide the number of court of appeal lay judges to be elected for every county in the territorial jurisdiction of the court of appeal or, if the territorial jurisdiction includes part of a county, for that part of the county. (SFS 1988:616)

Section 6

All Swedish citizens registered in the municipality or, as to lay judges of a court of appeal, in the county or that part of the county that is within the area of the court, are eligible to be elected as a lay judge, provided they are adult and do not have an administrator under the Code on Parents, Guardians and Children, Chapter 11, Section 7. Legally qualified judges, court officers, public prosecutors, police officers, advocates or other persons who are otherwise professionally engaged in the representation of litigants in judicial proceedings, may not be lay judges.

No person may at the same time be a lay judge in a court of appeal and in a district court.

A person who has attained the age of sixty years or who provides a valid excuse is not obliged to accept appointment as a lay judge. A person who has resigned as a lay judge is not obliged to serve again before the expiration of four years.

The court shall on its own motion examine the eligibility of the elected person. (SFS 1994:1620)

Section 7

Elections of lay judges for the district courts are carried out by the municipal councils.

Elections of lay judges for the courts of appeal are carried out by the county council assemblies. In the County of Gotland, the elections are carried out by the council assembly of the Municipality of Gotland.

The elections must be proportional, if demanded by electors whose number is equal to or exceeds the quotient of all electors and the number of lay judges to be elected, plus 1. Separate statutory provisions apply to the procedure for such a proportional election.

In electing lay judges, diversity with regard to age, sex, and occupation shall be sought. (SFS 1997:228)

Section 8

The lay judges are elected for a period of four years. The court may relieve a lay judge from the obligation to serve if he establishes a valid excuse. A lay judge who has attained the age of sixty may also be relieved. If a lay judge ceases to meet the eligibility requirements for election, that judge's commission shall lapse.

If a lay judge resigns during a term of service, a new lay judge shall be elected for the remainder of that period. Should the number of lay judges in the court district, or the county, be changed, the newly appointed lay judges may be elected for a time shorter than that prescribed by the first paragraph. (SFS 1994:1620)

Section 9

A lay judge who has been relieved of the obligation to serve or has resigned, but who is still eligible for election, must continue to fulfil the commission until the court has received notice that another person has been elected; even thereafter the lay judge must serve at the resumed proceedings of a case, if he previously participated in the proceedings.

Section 10

When a lay judge is disqualified from participating in a particular case, or fails to attend a session of the court, and no other lay judge can appear without undue delay, the chairperson of the court may call as a substitute any person eligible for election as a lay judge in the territorial jurisdiction of the court.

Section 10a

The government shall, for a three year period, appoint those who shall serve as financial experts under Chapter 1, Section 8, and Chapter 2, Section 4a. During the three year period, if necessary, additional persons may be appointed for the remainder of the period. If, while a financial expert is taking part in the disposal of a case, a circumstance occurs which means that the appointment shall terminate, the appointment shall nevertheless be considered valid in relation to the ongoing case.

A person qualified to serve as a financial expert must be an adult Swedish citizen and must not be in a state of bankruptcy or have an administrator under the Code on Parents, Guardians and Children, Chapter 11, Section 7. (SFS 1988:1260)

Section 11

A judge shall take the following oath before assuming the duties of office:
”I (name) promise and affirm on my honour and conscience that I will and shall impartially, as to the rich as well as to the poor, administer justice in all matters to the best of my ability and conscience, and judge according to the law of the Realm of Sweden; that I will never manipulate the law or further injustice for kinship, relation by marriage, friendship, envy, ill-will, or fear, nor for bribes or gifts, or any other cause in whatever guise it may appear; nor will I declare guilty one who is innocent, or innocent one who is guilty. Neither before nor after the pronouncement of the judgment of the court shall I disclose to the litigants or to other persons the *in camera* deliberations of the court. All this, as a honest and righteous judge, I will and shall faithfully observe.”

The oath shall be taken before the court or its chairperson. (SFS 1975:1288)

Section 12

Those who are or have been married to each other, or who are related by blood or marriage in lineal ascent or descent, or who are siblings, or who are so related by marriage that one of them is or has been married to a sibling of the other, or who are similarly related, may not sit together as judges on the bench. (SFS 1973:240)

Section 13

An judge shall be disqualified from hearing a case:
1. if he is a party therein, or otherwise has an interest in the matter at issue, or can expect extraordinary advantage or injury from the outcome of the case;

2. if he and one of the parties are, or have been, married or are related by blood or marriage in lineal ascent or descent, or are siblings, or are so related by marriage that one of them is, or has been, married to a sibling of the other, or if he is similarly related to one of the parties;
3. if he is related as specified in 2 to anyone who has an interest in the matter at issue or can expect extraordinary advantage or injury from the outcome of the case;
4. if he, or any relation as specified in 2, is a guardian, custodian or administrator or otherwise serves as legal representative of a party, or is a member of the board of a corporation, partnership, association or similar society, foundation or similar institution which is a party, or, when a municipality or similar community is a party, if he is a member of the board in charge of the public administration of the function affected by the case;
5. if he or any relation as specified in 2, is related in the way stated in 4 to anyone who has an interest in the matter at issue or can expect extraordinary advantage or injury from the outcome of the case;
6. if he is the adversary of a party, though not if the party has sought issue in order to disqualify him;
7. if he, acting in another court as a judge or officer, has rendered a decision concerning the matter at issue, or if he, for an authority other than a court, or as an arbitrator, has dealt with the matter;
8. if he, in the case of a main hearing of a criminal case, has prior to this main hearing determined the issue of whether the defendant has committed the act;
9. if he has served in the case as an attorney for, or counselled, one of the parties, or has been a witness or an expert therein; or
10. if some other special circumstance exists that is likely to undermine confidence in his impartiality in the case.(SFS 1993:348)

Section 14

If a judge knows of any circumstance that can be considered to warrant disqualification, he is obliged to disclose it on his own accord.

If a party desires to assent to the disqualification of a judge, he shall raise the objection on his first appearance in court or in his first written submission in the case after learning that the judge serves in the court or is otherwise handling the case or, if at that time the disqualifying circumstance was not known to the party, after learning of the circumstance. If a party fails to observe this requirement the right to raise the objection lapses.

The question of disqualification of a judge in a lower court may not be entertained in a superior court unless the objection is made in the superior court by a party who, in accordance with the provisions of the second paragraph, is entitled to raise the question, or an appeal is brought against the decision that rejected the objection. (SFS 1983:370)

Section 15

After the issue of disqualifying a judge has been raised, the judge may act in the case only as regards matters that cannot be postponed without extraordinary inconvenience and that do not involve determination of the case. Measures of the kind just mentioned may be taken by a judge even if he is declared disqualified.

If a party has assented to the disqualification of a judge in good time, the court shall decide the issue separately as soon as possible.

The judge may not take part in the determination of the disqualification issue, unless his presence is essential for a quorum and another judge cannot be substituted without delay.

Chapter 5

RIGHT OF PUBLIC ATTENDANCE AND MAINTENANCE OF ORDER AT COURT HEARINGS

Section 1

Court hearings shall be open to the public.

If it can be assumed that at a hearing information will be presented to which secrecy applies in court under the Secrecy Act (SFS 1980:100), the court, if it deems it to be of extraordinary importance that the information is not disclosed, may direct that the hearing be held behind closed doors insofar as it relates to the information. A hearing may be held behind closed doors also in other cases if secrecy applies under the Secrecy Act, Chapter 7, Section 22; Chapter 8, Section 17, or Chapter 9, Section 15 or 16, or, with regard to a court hearing during preliminary investigation of a criminal case or equivalent cases or matters, pursuant to that Act, Chapter 5, Section 1, or Chapter 9, Section 17. The hearing shall always be held behind closed doors, if secrecy applies pursuant to that Act, Chapter 9, Section 3, paragraph 2, and it would contravene an agreement referred to in that provision if the information were disclosed at the hearing.

Examination of anyone under the age of fifteen years, or of anyone who suffers from a mental disturbance may be held behind closed doors.

If other provisions for special cases provide that hearings be held behind closed doors, they shall apply. (SFS 1991:1549)

Section 2

Persons who are or appear to be under the age of eighteen years may be denied admission to public hearing when the chairperson of the court considers there is reason therefor. (SFS 1974:239)

Section 3

The chairperson of the court may admit to hearings behind closed doors officers of the court and persons serving in the court as part of their education. The court may also permit other persons to attend such hearings if there is special reason for so doing.

Section 4

If a hearing was held behind closed doors and information was provided which is subject to secrecy at court under the Secrecy Act (1980:100), the court may direct that the information shall not be disclosed. (SFS 1980:101)

Section 5

Deliberations on judgments or decisions shall occur behind closed doors unless the court finds that they can take place publicly. When deliberations are held behind closed doors, apart from members of the court, only officers of the court involved in processing the case may be present. The court may also permit other persons to attend such deliberations if there is special reason for so doing.

Judgments and decisions shall be delivered in open court. However, to the extent that the judgment or decision contains information in respect of which secrecy is prescribed under the Secrecy Act (1980:100), Chapter 12, Section 4, paragraph 2, the judgment or decision shall be delivered behind closed doors. (SFS 1980:101)

Section 6

If a party, a witness, or any other person who shall be heard by the court is incapable of understanding and speaking Swedish, an interpreter may be engaged to assist the court.

If an public interpreter for the language in question serves at the court, he shall be assigned. Otherwise, the court shall assign a suitable person to assist as interpreter in the case.

If the person to be heard has a serious hearing or speaking impediment, an interpreter may also be engaged to assist the court.

A person whose interest in the matter at issue, or whose relationship to any of the parties, could be considered to cast doubt on that person's reliability, may not be engaged as an interpreter.

The government shall issue regulations concerning both the employment of public interpreters and the assignment of interpreters when the person to be heard has a serious hearing or speaking impediment. (SFS 1975:589)

Section 7

An individual employed as an public interpreter, or otherwise appointed to assist as an interpreter, shall take an oath before the court undertaking to execute the assignment to the best of his ability. If there is reason to believe that the person assigned to assist as interpreter will receive further assignments to serve as interpreter at the court, that person may take an oath encompassing both present and future commissions. (SFS 1975:1288)

Section 8

An interpreter is entitled to reasonable remuneration for work, loss of time and expenses incurred on the assignment. The tariff to be

used in determining the remuneration shall be prescribed by the government or the authority designated by the government. The remuneration shall be paid from public funds. (SFS 1984:131)

Section 9

The chairperson of the court is responsible for the maintenance of order at court sessions and for issuing the regulations necessary therefor. The chairperson may expel any person who disturbs the hearing or otherwise behaves in an improper manner. He may also, in order to avoid congestion in the courtroom, may limit the number of spectators. The court may prohibit the recording by others of an examination by phonetic means b, if it appears that the recording will so embarrass the person being heard as to be detrimental to the inquiry. Photographs must not be taken in the courtroom.

If a person who has been expelled forces his way into the courtroom or if a person fails to comply with a directive for the maintenance of order in other respects, such person may by order of the court be placed in detention for the duration of the session, though for not more than three days.

There are special regulations concerning security control at court hearings. (SFS 1981:1065)

Chapter 6

COURT RECORDS

Section 1

Records shall be kept for each case separately.

For proceedings other than hearings, a record is not required, if:
1. the proceeding is conducted by a single legally qualified judge or by a court officer;
2. the rulings in the proceeding are separately drawn up and filed and have been arrived at without dissenting opinions in the court; or
3. the case is removed from further action.

When a judgment in a criminal case at a district court is rendered in simplified form under Chapter 30, Section 6, notes may be kept instead of a record in accordance with more detailed instructions issued by the government. (SFS 1982:1123)

Section 2

The record shall be kept by a court officer, or by a legally qualified member of the bench, and signed by him. The chairperson may personally attend to keeping the record when the circumstances so warrant.

A person whose interest in the matter at issue or relationship to any of the parties could be considered to cast doubt on his reliability may not be engaged to keep the record. Before serving as a record keeper, a person who has not taken the oath administered to judges shall take an oath before the court or its chairperson to execute to the best of his ability the duties of record keeper and to refrain from disclosing to anyone the deliberations of the court which are held behind closed doors. (SFS 1975:1288)

Section 3

The record shall include:
1. the court and the time and place of the session;
2. the members of the court, the interpreter, if any, and the record keeper;
3. the parties and whether they are present, their attorneys or counsel and, in criminal cases, the defendant’s counsel;
4. the powers of attorney presented orally before the court;
5. a short description of the matter at issue;
6. if a hearing is held behind closed doors, the reason therefor;
7. any decisions of the court that are not separately drawn up and filed; and
8. dissenting opinions that have been expressed during the voting of the court. (SFS 1969:244)

Section 4

The record of preparatory hearings shall include:
1. the parties' claims and objections, the amendments thereto and consents to the opposing parties claims;
2. a short statement of the allegations of each party and of the opposing party's reply thereto;
3. the items of evidence upon which each party seeks to rely and what each item is intended to prove, as well as specification of the documents and objects offered as evidence; and
4. any other matters deemed necessary in preparation for the main hearing.

If matters required to be noted in accordance with the preceding paragraph are included in pleadings or other documents or previously have been noted in the record of the case, only reference need by noted in the record.

The provisions in this section, to the extent relevant, shall apply to record keeping at all court hearings other than the main hearings.

Section 5

The record kept at main hearings shall summarily state the course of the hearing and include:
1. the parties' claims and objections, the amendments thereto and consents to the opposing parties claims;
2. the claims of persons other than the parties and whether the parties consent to or contest the claims; and
3. the witnesses and experts heard and the other items of evidence presented.

If matters required to be noted in accordance with 1 or 2 above are included in pleadings or other documents or previously have been noted in a record of the case, only a reference shall be noted in the record.

Section 6

Evidentiary statements made under examination shall be noted in the record to the extent they can be assumed to be of significance in the case. The same applies to observations made by the court at a view of the *locus in quo*.

The first paragraph does not apply to statements made by the defendant in a criminal case.

At main hearings in a court of appeal, the statements and observations referred to in the first paragraph need not be noted unless a record thereon can be assumed to become significant in an appeal to the Supreme Court. At main hearings in the Supreme Court, such notes are not required. (SFS 1987:747)

Section 7

Statements or events other than those mentioned above may not be recorded at hearings in the absence of special reason therefor. Nor may the legal arguments of the parties be recorded in the record.

Section 8

The record kept during a hearing shall be finalized before the hearing concludes. When the record has been drawn up, the chairperson shall mark therein a notation of its completion.

After a statement, which must be noted according to Section 6, has been recorded, the statement shall be read aloud or an opportunity to check the record afforded by some other means and the person heard shall be asked if he has any objections to the statement. Any objection not resulting in a correction shall be noted. Thereafter, the statement may not be changed. If the statement has first been noted in the record after being checked, the statement shall be annexed to the case documents.

Section 9

The accounts provided under examination may, instead of being noted in the record, be recorded in shorthand or by phonetic recording. The same applies to a summary of an account that can be of significance in the case.

The provision stated in this chapter, Section 8, paragraph 2, shall be applied, to the extent relevant, to accounts recorded in shorthand and to summaries of accounts phonetically recorded.

The stenographer is appointed by the court. A person whose interest in the matter at issue or relationship to any of the parties might cast doubt on that person's reliability may not be engaged as a stenographer. The provision in Chapter 5, Section 7, concerning

interpreters shall be applied correspondingly to stenographers appointed by the court. Such stenographers are entitled to reasonable remuneration for work, loss of time, and expenses incurred on the assignment. The remuneration shall be paid from public funds.

Regulations on transcribing to ordinary writing that which has been recorded in accordance with this section are issued by the government. (SFS 1987:747)

Section 10

The pleadings and other documents in the case, plus the record of the court, a copy of the judgment and of any decision drawn up and filed separately, shall be combined into a case file. Summonses, orders, and other decisions not noted in a record, shall also be included in the file by way of a notation on a pleading or by other means.

The right of the parties and other persons to the return of documents included in the case file is prescribed by the government. (SFS 1974:573)

Section 11

At the court a register shall be kept, including all cases. The register shall indicate for each case the time when it was received, the steps taken in the case, the date of its determination and, if there was an appeal, the time when the notice or appeal was received and the steps taken. (SFS 1996:247)

Section 12

What has been prescribed in this chapter concerning records, files and registers in cases shall also be applied to non-contentious matters dealt with under this Code. (SFS 1996:247)

Section 13

Further provisions concerning records, organization of files and registers are issued by the government. (SFS 1996:247)

Chapter 7

PUBLIC PROSECUTORS AND POLICE AUTHORITIES

Section 1

The public prosecutors are:
1. the Prosecutor-General;
2. the regional prosecutors; and
3. the district prosecutors.

The duties of the public prosecutors may be performed by assistant prosecutors.

Instructions for the prosecutors are issued by the government. (SFS 1974:573).

Section 2

The Prosecutor-General is chief prosecutor under the government and, in this capacity, is responsible for, and the head of, the public prosecutor service for the Realm.

Under the Prosecutor-General, the regional prosecutors, within their respective field of activities, are responsible for, and the heads of, the public prosecutor service. (SFS 1974:573)

Section 3

The Prosecutor-General and the regional prosecutors are appointed by the government. The appointment of other prosecutors is prescribed in the instructions governing their office. (SFS 1974:573)

Section 4

The regional prosecutors or the district prosecutors are the public prosecutors at the lower courts and the courts of appeal.

The Prosecutor-General, however, is the public prosecutor at the courts of appeal in cases referred to in Chapter 2, Section 2, paragraph 1.

The Prosecutor-General is the public prosecutor at the Supreme Court.

When a criminal case is appealed to the Supreme Court solely by a private party, the Prosecutor-General may assign a subordinate prosecutor to appear on his behalf.

Further regulations concerning the division of work among the prosecutors are prescribed in the instructions governing their office. (SFS 1981:1312)

Section 5

The Prosecutor-General and the regional prosecutors may themselves take on an assignment that would otherwise be the responsibility of a subordinate prosecutor. The Prosecutor-General and, insofar as the government prescribes, the regional prosecutors may also appoint an extra prosecutor to present a case in the lower courts, and in the courts of appeal. Further, the Prosecutor-General may appoint a extra prosecutor to present the case in the Supreme Court if an appeal was lodged solely by a private party.

To the extent prescribed in their instructions, the assistant prosecutors may perform the duties of the prosecutors where he is employed. However, only the Prosecutor-General has authority to institute and continue prosecution in the Supreme Court. (SFS 1983:999)

Section 6

A circumstance that regarding a particular offence would disqualify a judge also disqualifies a public prosecutor from participating in the preliminary investigation or prosecution of a the offence. Disqualification of a prosecutor may not be founded upon an official action taken by that prosecutor or an act committed against the prosecutor because of his office.

Although disqualified, a prosecutor is entitled to take a measure that cannot be postponed without risk.

The issue of disqualification of a prosecutor is determined by the prosecutor's immediate superior; the Prosecutor-General, himself determines his own disqualification. (SFS 1947:616)

Section 7

Repealed by SFS 1983:999.

Section 8

Special provisions are prescribed concerning special prosecutors

No special prosecutor other than the Chancellor of Justice, or a Parliamentary Ombudsman may decide to institute a prosecution or lodge an appeal in the Supreme Court. (SFS 1968:79)

Section 9

The provisions in Section 6 concerning public prosecutors correspondingly apply to the police authorities, and to a police officer who acts or issues decisions under this Code; disqualification issues, however, are determined by the police authority. (SFS 1984:388)

Chapter 8

ADVOCATES

Section 1

There shall be a general Bar Association for the Realm. The regulation of the Association shall be confirmed by the government.

An advocate is one who is a member of the Association. (SFS 1974:573)

Section 2

Membership in the Bar Association is open only to a person who:
1. is a Swedish citizen or a citizen in another state within the European Economic Area;
2. is resident in Sweden, or in another state within the European Economic Area;
3. has passed proficiency tests prescribed for Judicial service;
4. has had the practical and theoretical training required for work as an advocate;
5. has acquired a reputation for integrity; and
6. is also otherwise considered suitable to practise as an advocate.

The board of the Bar Association may, in particular cases, waive the admission requirements 1. and 2. of the first paragraph. This also applies to the requirements 3 and 4 of the first paragraph as to the persons who are authorized as advocates in another state in accordance with the provisions in force in that state.

A person who has completed an education required to be an advocate in a state within the European Economic Area and in Sweden has passed an examination showing that he has sufficient knowledge of the Swedish legal system shall be deemed to fulfil the requirements under 3 and 4 of the first paragraph.

A person authorized as an advocate in Denmark, Finland, Iceland or Norway, in accordance with the provisions in force there, who thereafter serves in a satisfactory manner, for at least three years, as an assistant lawyer at an advocate office in Sweden, shall be deemed to fulfil the requirements under 3 to 6 of the first paragraph.

A person who is declared bankrupt or who has an administrator pursuant to the Code on Parents, Guardians and Children, Chapter 11, Section 7, may not be accepted for membership. Nor is membership open to a person barred from being a consultant under Section 3 of the Act Prohibiting the Provision of Professional Advice in Certain Cases etc.(1985:354).

Legally qualified judges or officers at the courts, or public prosecutors or enforcement officers may not be accepted as members, nor may other persons employed by the state, a municipality, or persons employed by an individual other than an advocate be accepted as members, unless the board of the Bar Association grants a waiver. However, this does not apply to persons employed by public advocate offices. (SFS 1992:1511)

Section 3

Applications for admission to the Bar Association are determined by its board.

Section 4

An advocate shall in his practice honestly and diligently perform the assignments entrusted to him, and shall always observe good advocate mores. The obligation of confidentiality for advocates at public advocates offices is governed by the Secrecy Act (SFS 1980:100), Chapter 9, Section 9. Other advocates are bound, when good advocate mores so require, to keep confidential what they learn in the exercise of their profession.

If the activities of an advocate are carried on in the form of a corporation or partnership, only advocates may be part owners or shareholders unless the board of the Bar Association grants a waiver.

Advocates are obliged to keep segregated from their own property the money and other assets of their clients. (SFS 1994:1034)

Section 5

Repealed by SFS 1972:430.

Section 6

The activities of advocates are supervised by the board of the Bar Association and the disciplinary committee, which shall supervise that an advocate when conducting court litigation and in his other activities satisfies the duties imposed upon him. Matters concerning disciplinary intervention against advocates under section 7, first to fourth paragraphs, shall be considered by the disciplinary committee and, in accordance with that provided in the charter, the board.

Advocates are obliged to furnish the board with the information necessary for the supervision.

The Chancellor of Justice may request the disciplinary committee to implement measures against an advocate who neglects his duties or the board to implement measures against a person who is no longer authorised to be an advocate.

A person who participated in supervisory proceedings at the Bar Association shall not make any unauthorized disclosures of information acquired in the course of such proceedings concerning anyone's personal or financial circumstances. (SFS 1997:273)

Section 7

An advocate who in his practice intentionally commits a wrong or otherwise acts dishonestly, shall be expelled from the Bar Association. When the circumstances are extenuating, the board may instead issue a warning to the advocate.

An advocate who in any other respect neglects his professional responsibilities may be issued a warning or a reminder. When the circumstances are extraordinarily serious, he may be expelled from the Association.

An advocate who is issued a warning may, if there is special reason, also be ordered to pay a monetary penalty to the Association of not less than one thousand crowns or more than fifty thousand crowns.

If it is considered sufficient, the disciplinary committee may express an opinion that the advocate's action is wrong or inappropriate, instead of issuing a reminder to the advocate.

If, concerning an advocate, a circumstance occurs that would render him ineligible for acceptance according to Section 2, paragraphs 5 or 6, he is bound to resign from membership immediately. If he fails to do so, the board may make an order for his exclusion. The same applies to an advocate who ceases to fulfil the nationality requirement under Section 2, first paragraph, item 1, or the residency requirement pursuant to the Section 2, first paragraph, item 2, unless the board consents to continuation of the advocate's membership in the Association.

A decision of expelling a person from the Association may be declared immediately effective.

A breach of the duty to observe confidentiality under Section 4, first paragraph, third sentence, may be prosecuted only by the

Chancellor of Justice. Prosecution may be instituted only if called for in the public interest. (SFS 1997:273)

Section 8

Anyone denied membership in the Bar Association, or expelled from it, may appeal against the decision to the Supreme Court. Appeals from decisions rendered under Section 7 by the board or the disciplinary committee of the Association may be brought by the Chancellor of Justice in the Supreme Court. (SFS 1997:273)

Section 9

What is prescribed in the Code of Judicial Procedure or any other statute about advocates shall also govern, to the extent applicable, a person authorized as an advocate in another state within the European Economic Area when he practises in Sweden. In his practice such an advocate shall use the professional designation used in the state in which he is authorized and expressed in that state's language and with reference to the professional organization to which he belongs or to the court in which he may appear according to the law of that state. On request of the court, anyone who declares himself to fulfil the requirements of the first sentence shall provide proof of it.

The first sentence of the first paragraph does not comprise the provision in the second paragraph of Section 4 nor and the provision in the Penal Code, Chapter 17, Section 15, paragraph 3.

The board of the Bar Association shall notify the competent authority or organization in the state where the advocate is authorized of decisions in which it has been established that the advocate has neglected his professional duties as an advocate. (1992:1511)

Chapter 9

PROCEDURAL OFFENCES, DEFAULT FINES AND CUSTODIAL ESCORT TO COURT

Section 1

A party who, against better knowledge, commences, or causes the commencement of, a civil action shall be sentenced to a fine. (SFS 1991:241)

Section 2

A party who, against better knowledge, appeals from a judgment or a decision shall be sentenced to a fine. (SFS 1991:241)

Section 3

A party in a civil case, or an aggrieved person in a criminal case, who endeavours to prolong the course of litigation by the interposition of clearly unfounded allegations or defences, by withholding evidence, or by any other improper measure, shall be sentenced to a fine. What has been said of a party shall also apply to an intervenor, even if the intervenor lacks standing as a party. (SFS 1991:241)

Section 4

The provisions in Sections 1 to 3 shall apply correspondingly to legal representatives, as well as to attorneys and counsel.

Section 5

Anyone who, at a court session, disturbs the hearing, or takes photographs in the courtroom or violates a regulation or a prohibition order that has been issued pursuant to Chapter 5,

Section 9, shall be sentenced to a fine. This shall also apply to anyone who, orally or in a paper filed with the court, employs an unseemly manner of expression. (SFS 1991:241)

Section 6

A person who without valid reason, violates a nondisclosure obligation imposed by the court or the investigation leader shall be sentenced to a fine. (SFS 1991:241)

Section 7

If the attendance or personal appearance of a party or any other person is needed at a hearing, the court may prescribe a default fine. If a special provision regarding orders has been issued it shall apply.

If an order, which according to a special provision shall be issued subject to a default fine, and the addressee resides abroad, the court may omit the default fine if service otherwise is not possible in the foreign state. In subsequent proceedings in the case, the order in other respects shall be treated as equivalent to an order for a default fine. (SFS 1984:131)

Section 8

If a penalty is prescribed, a default fine may not be ordered.

A default fine may not be imposed against the state. (SFS 1987:747)

Section 9

If a court session is cancelled before the time scheduled for the session because a person who has been ordered to attend under penalty of a default fine has notified the court of an impediment to

attendance the default fine may nevertheless be imposed if he does not subsequently submit information showing that he probably had legal excuse. (SFS 1987:747)

Section 10

If a person is to be brought to a court hearing in custody, unless otherwise provided below, he must not be taken into custody sooner than necessary to accomplish the person's immediate appearance before the court.

If an earlier attempt to bring a person into custody has failed, or otherwise if, by reason of what is known about him, there is special reason therefor, the court or a police authority may order that he be taken into custody earlier than stated in the first paragraph. Such custody may endure no more than six hours or, if ordered by the court, no more than eighteen hours beyond the time indicated in the first paragraph. When considering the matter, the court shall take into account the inconveniences that may arise should the person to be brought in custody to the court not be present at the court hearing.

A person taken into custody pursuant to the second paragraph shall, pending the court appearance, remain at the police station or another place decided by the police authority. If the person taken into custody is to appear in a criminal case as a defendant he may be detained in custody.

A person taken into custody under this section may not be subject to any other restriction of his liberty than the purpose of the custody or the public safety requires. (SFS 1998:24)

PART TWO

PROCEEDINGS IN GENERAL

I. PROCEEDINGS IN CIVIL CASES

Chapter 10

COMPETENT COURT

Section 1

The competent court for civil cases in general is the court for the place where the defendant resides.

When the defendant has civil registration in Sweden, the place where he was registered on the first of November of the preceding year shall be considered to be his residence.

A corporation, partnership, cooperative, association or similar society, foundation or similar institution is considered to reside at the place where the board has its seat or, if the board has no permanent seat or there is no board, at the place from which the administration is carried out. This rule also applies to municipalities or similar public authority.

The estate of a deceased person may be sued at the court where the deceased would have been required to respond.

A person with no known residence in or outside Sweden may be sued at the place where he is sojourning. If he is a Swedish citizen and sojourning outside the Realm or at an unknown place, he may be sued at the place within the Realm where he last resided or sojourned. (SFS 1991:485)

Section 2

In civil cases the Crown may be sued at the place where the public authority charged with attending to the suit has its seat.
Section 3

In disputes concerning debt obligations, a person with no known residence in the Realm may be sued where property he owns is located. In disputes involving movable property, he may be sued where the property is located.

A debt evidenced by a negotiable promissory note or by any other document, the presentation of which is a condition precedent to demand payment, is deemed to be located where the instrument is kept. Other debt claims are considered to be located where the debtor resides. If the debt is secured, the place where the security is kept may be deemed to be the location of the debt.

Section 4

A person with no known residence within the Realm who has entered into an obligation or otherwise incurred a debt in the Realm may be sued in a dispute concerning the same at the place where the obligation was created or the debt incurred.

Section 5

A person engaged in farming, mining, manufacturing, handicraft, trade, or similar activity with a permanent establishment may be sued, in a dispute arising directly from the activity, where the establishment is located.

Section 6

A person who has entered into an obligation or otherwise incurred a debt at a place where he has been residing for a considerable period

may be sued there with respect to the obligation or debt while he is present at that place. The same rule shall apply to debts incurred for food, lodging, and the like at a place of temporary sojourn.

Section 7

proceedings concerning disputes relating to administration by administrators, custodians, or guardians may be instituted at the court at the place where the minor or the person for whom a guardian or administrator is or has been appointed resides, or in the court at the place where the administration has been performed.

If a person has otherwise administered property belonging to another, disputes relating to that administration may be instituted in the court for the place where the administration has been performed. (SFS 1994:1435)

Section 8

An action regarding injurious actions may be instituted in the court at the place where the act was done or the injury occurred. When the act was done or the injury occurred in two or more court districts, the action may be instituted in any of those districts.

Section 8a

In disputes between consumers and commercial enterprises concerning goods, services, or other commodities offered mainly for personal use, an action against the commercial enterprise may be instituted in the court for the place where the consumer resides. However, this rule shall apply only in cases presumptively qualifying for adjudication by a single legally qualified judge, pursuant to Chapter 1, Section 3d. (SFS 1989:656)

Section 9

Disputes concerning succession or the validity of wills shall be entertained by the court in which the deceased would have normally been required to respond in civil cases.

Disputes concerning the division of marital or cohabitants' property shall be entertained by the court in which either of the spouses or cohabitants is normally required to respond in civil cases. If one spouse or cohabitant is dead, proceedings for such a dispute shall be entertained by the court in which the deceased would have normally been required to respond in civil cases.

If the rules stated in the two preceding paragraphs do not yield a competent court, the case shall be entertained by the Stockholm City Court.

Special provisions apply to complaints against an administrator's or executor’s division of marital or cohabitants' property or distribution of the estate of a deceased. (SFS 1987:792)

Section 10

Disputes concerning title to immovable property, the use and enjoyment of immovable property, a servitude or other special right in the property, or possession of the property shall be entertained by the court for the place where the property is situated. This rule also applies to disputes concerning the liability of an owner or possessor of the property to perform any obligation required of him in this capacity or, when a right to the use of, or other special right in, land has been granted, to disputes concerning the consideration for the granted rights, the maintenance of buildings, or similar matters. However, this section does not apply to disputes concerning leases.

For the purpose of applying this section, disputes relating to temporary grants of the use of ground, or a building, or part of a

building to park vehicles shall not be considered disputes concerning leases.

When the land is located in more than one court district, or when a dispute involves two or more units of land located in different court districts, proceedings for the dispute shall be entertained by the court of the district where the main part is located. (SFS 1990:1128)

Section 11

The following may also be instituted in the courts indicated in Section 10:
1. disputes concerning the purchase price for immovable property or similar claims arising out of the transfer of ownership of the property;
2. actions against the owner of immovable property for personal satisfaction of a debt in respect of which the property is mortgage, provided that payment is simultaneously sought against the property;
3. disputes concerning damage to, or other intrusion upon, immovable property;
4. claims for compensation for work done on immovable property; and
5. claims for compensation for breach of a covenant of title.

Section 12

For the purpose of applying the rules of this chapter, immovable property includes buildings situated on the land of another, mines, and mine buildings and installations.

Section 13

Disputes concerning attorneys' fees and costs, the division of litigation costs among several obligated persons, and similar claims arising out of litigation may be instituted in the court that first adjudicated in the matter.

Section 14

Claims based on essentially the same ground against several defendants, when bought simultaneously, may be instituted in the court in which any defendant is required to respond under the preceding provisions in this chapter. If the matter at issue is such that all interested persons will be bound by the same judgment, the action may also be instituted in the court in which any defendant is required to respond.

Counterclaims shall be entertained by the court in which the main case is pending.

Claims pursuant to Chapter 14, Section 4 or 5, shall be entertained by the court in which the main action is pending.

Section 15

After the summons has been served upon the defendant, any alteration of the facts concerning the competence of the court shall have no effect.

Section 16

If a written contract stipulates that an existing dispute, or one that may arise in the future stemming from a specified legal relationship, may be instituted in a certain court, or that a certain court is exclusively competent, this shall apply unless otherwise prescribed.

Section 17

A court is not competent, by reason of the provisions in this chapter, to entertain:
1. disputes that shall be entertained by an authorities other than a court, or a by special court or required by an act or regulation to be determined directly by arbitrators;
2. disputes for which an act or regulation designates a certain court as exclusively competent to deal with such disputes;
3. disputes assigned by law exclusively to designated district courts, if proceedings for the dispute are instituted in another court;
4. disputes referred to in Section 9 or 10 or otherwise are required by act or regulation to be entertained exclusively in the court thereby designated, if proceedings for the dispute are instituted in another court;
5. marriage cases;
6. disputes concerning seized property or the validity of a sales contract concerning personal chattels and as to which special provisions designate the competent court; or
7. disputes of a kind that may be entertained by the courts without a summons.

Nor, by reason of the provisions in this chapter, may an action be instituted in a court of another kind than that prescribed by law for entertainment of the dispute; this provision, however, shall not apply to disputes referred to in Section 13.

A claim setoff against a debt may not be entertained by a court that, pursuant to the first paragraph, is not competent to entertain a dispute concerning the said debt. (SFS 1981:828)

Section 18

If rules of competence other than those set out in Section 17 indicate that a court is not competent to entertain proceedings for dispute instituted in that court, the dispute shall nonetheless be

deemed to have been instituted in a competent court, unless the defendant has made a timely objection to the competence of the court or has failed to appear in court at the first hearing or, if the preparation is in writing, omitted to submit an answer. If the defendant fails to appear or to submit an answer, the plaintiff's statement as to the circumstances that render the court competent shall be assumed correct, provided that the defendant has been notified of the statement and that there is no reason to believe that the statement is incorrect.

Section 19

Once a lower court has entertained a dispute, a superior court may not consider the competence of the lower court unless pursued on appeal or raised at the appeal, by a party entitled to do so, or unless the dispute falls within the competence of an authority other than a court or the competence of a special courts, or unless the dispute must be entertained originally by a superior court or, by act or regulation, the dispute must be determined directly by arbitrators.

Section 20

When a superior court declares that a lower court lacks competence to entertain a case instituted in that court, the superior court, on request of a party, may refer the case to a competent lower court.

When more than one court has, by a decision which has entered into force, been declared to lack competence the Supreme Court may, if one of the courts nonetheless is competent, refer the case to that competent court on application of a party.

The decision of the Supreme Court shall determine the competent court for cases that, according to Chapter 14, Section 7a, shall be consolidated in a single proceeding. (SFS 1987:747)

Section 20 a

If on receiving an application the court considers that it is not competent to entertain the case or determine the application by another procedure but that another court is competent, the application shall be transferred to that other court unless the applicant objects to this and provided there is no other reason against the transfer. An application shall be deemed to have been received by the later court on the same day as it was received by the court that first received the application. (SFS 1996:247)

Section 21

If provisions concerning the competence of courts contained in any act or regulation deviate from the rules contained in this chapter, the former shall govern.

Chapter 11

PARTIES AND THEIR LEGAL REPRESENTATIVES

Section 1

Any person may be a party to litigation.

When a party does not exercise control over the matter at issue, or is incompetent, personally, to enter into the legal relationship in question, the legal representative of the party shall sue or be sued on his behalf. In actions based on injurious acts the provisions in Chapter 20, Section 14, and Chapter 21, Section 1, paragraph 1, shall apply correspondingly.

Section 2

Any corporation, partnership, cooperative, association or similar society, or foundation or similar institution that can acquire substantive rights and assume legal liabilities may be party to litigation. The same applies to the Crown, municipalities, and similar local authorities.

The conduct of proceedings for such above mentioned parties is attended to by their legal representative. (SFS 1947:616)

Section 3

An alien who is incompetent to engage in legal proceedings according to the law of his homeland is nevertheless entitled attend to his legal proceedings in Sweden if he is competent to do so according to Swedish law.

Section 4

Proof of the capacity of a person who is named as a party to litigation or who desires to proceed as a party on his own behalf or as a legal representative of a party, need not be supplied unless the court considers that such proof should be presented.

Section 5

At the main hearing in a district court or in a court of appeal, a party shall appear in person, unless it may be assumed that his presence would not be of any significance for the inquiry.

At the main hearing in the Supreme Court, a party must appear in person if the Court consider his presence needed for its inquiry.

At a preparatory meeting or other hearing, a party must attend in person, if it may be assumed that his presence would promote the purpose of the session.

These provisions on the obligation of parties to appear in person also apply to their legal representatives. If a party has more than one legal representative, the court may direct which of them shall attend in person. Even if a person may not conduct the proceedings on his own behalf, he is nevertheless obliged to appear in person, if the court considers his presence needed for the inquiry.

When a party or a legal representative is required to attend in person, the court shall order him to do so. (SFS 1987:747)

Section 6

A party who has been summoned to appear in person at a session may be granted compensation from public funds for the expenses of travel and subsistence, if the party is an individual and it reasonable having regard to his or her financial circumstances, the expense that

may arise in connection with the appearance and the other circumstances. The court may grant an advance on the compensation.

Compensation is paid in accordance with regulations issued by the government. (SFS 1996:1624)

Chapter 12

ATTORNEYS IN LITIGATION

Section 1

The parties may present their cases by attorney.

The obligation of a party to appear in person is prescribed in Chapter 11, Section 5.

Section 2

Only a person deemed suitable by the court, by reason of that person's honesty, knowledge, and earlier activities, may appear as an attorney. The attorney shall master the Swedish language.

An attorney shall be resident in Sweden or another state within the European Economic Area; however, other persons may serve as an attorney if, with regard to the circumstances, the court considers it appropriate.

A minor, a person who is declared bankrupt or has an administrator appointed under the Code on Parents, Guardians and Children, Chapter 11, Section 7, may not appear as an attorney. (SFS 1992:1511)

Section 3

Legally qualified judges or officers educated in law employed in the courts, public prosecutors, or enforcement officers may not appear as attorneys unless the government or the authority it designates grants permission. This prohibition shall not apply, however, to a person who, while on leave, works for self-educational purposes as assistant to an advocate.

A lay judge may not appear as attorney for a party before the court in which he serves. (SFS 1992:1511)

Section 4

Any person related, as defined in Chapter 4, Section 12, to a judge who is a member of the bench handling a case may not appear in that case as an attorney. Nor may a person appear as an attorney if he previously dealt with the matter as a judge or court officer, or as an attorney for the opposing party.

Section 5

When an attorney is shown to be dishonest, lacking in skill, imprudent, or is otherwise considered unsuitable, the court shall dismiss him as an attorney in the case; if there is reason, the court may also declare him disqualified to serve as an attorney before that court either for a certain period or until further notice.

Section 6

When a court dismisses an attorney, unless the party is present and desires to present his own case, the court shall direct the party to designate a suitable attorney. If the party fails to do so and does not attend in person, he shall be considered in default.

If the dismissed attorney or an attorney disqualified pursuant to Section 5 of this chapter is an advocate, the court shall notify the board of the Bar Association of the measures taken. (SFS 1987:747)

Section 7

If a person, who may not be an attorney, seeks as a party to recover on an assigned claim, and it is found probable that the claim was transferred to him in order to make it possible for him to attend to

present the case in person, the court shall direct him to designate an attorney. If the party fails to do so, he shall be considered to be absent.

Section 8

A party who wishes to be represented by an attorney shall give the attorney a power of attorney either orally before the court or in writing. A written power of attorney shall be signed by the party in his own hand.

Section 9

The original of a written power of attorney shall be presented to the court when the attorney first appears in the case.

If the power of attorney is not available at the outset, the court, shall give the attorney time to produce one; this does not apply to formal notice of intention to appeal against a decision. If a postponement is considered inconvenient, the court may continue the proceedings, but may not pronounce its judgment or final decision. If a power of attorney is issued, the power shall be deemed to authorize the acts previously performed in the proceedings by the attorney.

If the court doubts the signature of a party on the power of attorney, it may grant a postponement pending verification.

Either the original or a certified copy of a power of attorney shall be placed in the case file.(SFS 1989:656)

Section 10

When, under specially applicable provisions, the content of a power of attorney has been communicated by telegraph or telephone, a written record of the communication is valid as a power of attorney;

however, if the court considers it necessary it may the power of attorney must be presented to the court in the original, under pain that of the written record will otherwise be deemed invalid as a power of attorney.

Further regulations concerning the communication of powers of attorney by telegraph or telephone are issued by the government. (SFS 1974:573)

Section 11

Where the crown, a municipality or other government body, or a public institution is a party, a commission duly executed, or an extract from the report of a decision appointing the attorney, is valid as a power of attorney. With regard to a corporation, association or similar society, or a foundation or similar institution, a certified copy from the report of a decision appointing the attorney may be valid as a power of attorney. (SFS 1947:616)

Section 12

A power of attorney shall state the name of the attorney. It may not be addressed to the bearer.

A power of attorney shall refer to a certain case, or to litigation in general. If a party wishes to issue a power of attorney limiting representation to a certain court or to a particular hearing, the party shall so state in the power. A power of attorney presented orally before the court is valid only for the case in which it has been presented.

Section 13

Without consent of the party, an attorney may not delegate his responsibilities to another.

If an attorney has the right to delegate his responsibilities to another, his substitute may delegate his responsibilities to attend to the action to another, provided that the attorney has given his consent to such further delegation.

Section 14

As to the matter at issue, a power of attorney authorizes the attorney on behalf of the party:
1. to institute an action and to apply for measures, even if those measures must be sought from an authority other than the court;
2. to be served with pleadings and other documents, except orders for attendance of the party in person;
3. to perform all acts relating to the conduct of the party's action and to present the reply to each claim and request asserted against the party;
4. to withdraw a claim made by the party and to consent to a claim made by the opposing party;
5. to settle an action;
6. to apply for enforcement of the judgment of the court; and
7. to collect litigation costs awarded to the party.

A power of attorney to conduct judicial proceedings in general does not authorize the attorney to institute an action on a claim not amenable to out-of-court settlement, or to be served with the summons in such an action.

A power of attorney limited to a certain court authorizes the attorney to act in that court as specified in the first paragraph. The attorney may also give formal notice of intention to appeal against a decision issued by the court.

A power of attorney limited to a certain hearing authorizes the attorney at that hearing to act as specified in the first paragraph, clauses 2 to 5. The attorney may also give formal notice to the court

of intention to appeal against decision made at that hearing. (SFS 1987:747)

Section 15

The authority of an attorney pursuant to Section 14 may be limited only with respect to his power to institute an action, to be served with the summons application, to settle an action, to apply for enforcement of the judgment of the court, or to collect the litigation costs awarded to the party; any other restrictions shall be without effect.

A permitted limitation of the power of attorney, if it is not stated in the power, is not effective with respect to the court and the opposing party until they have been notified of the limitation either orally before the court or in writing.

Section 16

When a power of attorney is not composed as required by Section 12, the court shall direct the party to correct the error. If the error is not corrected the power of attorney is invalid.

Section 17

Any act by the attorney in the course of the litigation done in the presence of the party is ineffective as to the latter if he immediately protests against the act.

Section 18

A party can revoke a power of attorney at any time.

An attorney who wishes to resign his commission has the duty to protect the interests of the party in relation to the subject of the

power of attorney until the party has had an opportunity to make other arrangements for the conduct of his case.

The revocation of or resignation is not effective with respect to the court and the opposing party until it has been brought to their attention either orally before the court or in writing.

Section 19

If the party dies or loses the right to dispose of the matter in the dispute, the power of attorney does not cease to be valid; however, when reason therefor exists, the court shall notify the deceased's estate, or the party's legal representative, of the existence of the litigation.

If a power of attorney has been issued by the legal representative of a party and thereafter the legal representative loses his authority, the power of attorney remains valid.

Section 20

A person who acts as an attorney is accountable for his authority to act in that capacity and, when unable to prove that he acted according to a power of attorney, or that an act done by him in the course of the litigation has been ratified by the party or is otherwise binding upon the party, he is obliged to compensate the opposing party or others for the litigation costs incurred owing to acts on his part that were not binding upon the party he purported to represent. On the obligation to compensate for other losses, the corresponding general provisions on powers of attorney shall apply.

Section 21

The provisions in this chapter concerning an attorney authorized to conduct a case on behalf of a party shall apply, to the extent applicable, to an attorney authorized to handle special measures.

Section 22

A party may engage a counsel for the conduct of the case. The provisions in Sections 2 to 5 and Section 6, paragraph 2, shall apply to such counsel in litigation. Any act by counsel in the course of the litigation done in the presence of the party shall be deemed authorized by the party unless he immediately protests against the act.

Section 23

A person authorized to manage property or otherwise deal with the affairs of another person under a general power, whereby he is also authorized to attend to court actions on behalf of his principal, shall be subject to the rules governing legal representatives.

Section 24

Special provisions in a law or decree concerning the authority to attend to court actions on behalf of another person shall apply.

Chapter 13

JUSTICIABLE DISPUTES AND INSTITUTION OF ACTIONS

Section 1

An action for an order obliging the defendant to perform an act may be entertained, even when the time for performance does not expire prior to the determination by the court, provided that:
1. the claim is for periodic performances, and either does not depend upon the performance of a past or future consideration, or is in the form of a pension or an annuity owed by reason of consideration already given, and that at least one of them is due;
2. the performance obligation matures immediately upon default of another obligation that constitutes a claim in the case;
3. the claim is for interest pending payment of a mature debt or for other obligations auxiliary to the principal obligation;
4. timely performance is important to the plaintiff, and there is special reason to believe that the defendant will avoid performance; or
5. such action as is otherwise authorized by law.

Section 2

An action for a declaration of whether or not a certain legal relationship exists may entertained on the merits if an uncertainty exists as to the legal relationship, and the uncertainty exposes the plaintiff to a detriment.

If determination of the matter at issue depends upon the existence or non-existence of a certain disputed legal relationship, a request for a declaration thereon my be entertained.

Actions for declaratory judgments may be entertained in other cases where legislation so prescribes.

Section 3

The action instituted may not be amended. The plaintiff, however, may:
1. by reason of a circumstance that occurred during the proceedings or only became known to him then, demand a performance other than that in respect of which the action was instituted;
2. request a declaration pursuant to Section 2, paragraph 2; and
3. claim interest or other auxiliary obligations dependent upon the principal obligation, and also present a new claim based essentially on the same ground.

A claim pursuant to clause 2 or 3 raised after the main hearing has commenced, or after the case is otherwise ready for disposal , may be dismissed if it cannot be considered without inconvenience. Claims pursuant to clause 2 or 3 may not be presented for the first time in a superior court.

A limitation by the plaintiff of his action, or, without changing the matter at issue, his allegation of a new circumstance in support of his action, does not constitute an amendment. (SFS 1987:747)

Section 4

An action shall be initiated by summons, unless otherwise prescribed.

A plaintiff may amend his action as authorized by Section 3 either orally before the court or in writing. The defendant shall be notified of the amendment.

An action shall be deemed initiated when the summons application is received by the court or, if a summons is not necessary, when the action is filed at the court.

Section 5

In matters amenable to out of court settlement, if the plaintiff withdraws his action after the defendant has responded, the case shall nonetheless be adjudicated if the defendant so requests.

In matters other than those mentioned in the first paragraph, if the plaintiff withdraws his action after the entry of the judgment and without the consent of the defendant, the withdrawal is without effect.

Section 6

While an action is pending, a new action involving the same issue between the same parties may not be entertained.

Section 7

If the plaintiff transfers the subject of the dispute, the transferee has the right, without a new summons, to take over the Plaintiff's action in the case in its form at the time of his admission into the proceedings; the liability of the transferor for litigation costs is prescribed in Chapter 18, Section 10.

If a transfer occurs on the defendant's side, the transferee, subject to the plaintiff's consent, may be substituted for the original defendant.

In the event of a transfer, as mentioned above, by either the plaintiff or the defendant, the transferee, on the request of the opposing party, is obliged to join as a party in the litigation if summoned.

Chapter 14

JOINDER OF CASES AND PARTICIPATION BY THIRD PARTIES

Section 1

Cases instituted at the same time by a plaintiff against the same defendant shall be joined in one proceeding if they are based essentially on the same ground.

Section 2

When cases have been instituted at the same time by a plaintiff against more than one defendant, or by more than one plaintiff against one or more defendants, the claims shall be joined in one proceeding if they are based essentially on the same ground.

Section 3

If the defendant requests joint adjudication with the plaintiff's action of an action instituted by the defendant against the plaintiff concerning the same or a related matter at issue, or concerning a debt that may be set-off against the plaintiff's claim, the cases shall be joined in one proceeding. A claim thus joined with the main claim is a counterclaim. (SFS 1987:747)

Section 4

If a person not party to the proceedings requests joint adjudication upon instituting an action, which concerns the same matter at issue, against one or both parties, the cases shall be joined in one proceeding. (SFS 1987:747)

Section 5

If a party, in the event that a judgment is entered against him, wishes to present a claim for rescission or for damages, or a similar claim against a third party, he may institute proceedings against the third party for joint adjudication with the main claim.

If a third person, by reason of the potential outcome of a pending case, wishes to institute proceedings of the kind indicated in the first paragraph against one or both of the parties, he may institute this action for joint adjudication with the main claim. (SFS 1987:747)

Section 6

Claims between the same or different parties may also be joined in one proceeding in situations other than those described above if joinder will aid the inquiry. If there is reason, the claims may be separated again later.

Section 7

The provisions of Sections 1 to 6 authorizing joinder of cases in one proceeding apply only when the claims have been instituted in the same court, the court is competent, and the same rules of procedure apply to each case.

If an action of the kind indicated in Sections 3 to 5 is instituted after commencement of the main hearing, or after the main case is otherwise ready for disposal, the court may deal with the cases separately, if they cannot be dealt with jointly without inconvenience. The same applies if a party institutes an action of the kind indicated in Section 3 or 5 after expiration of the time for making statements prescribed in Chapter 42, Section 15. (SFS 1987:747)

Section 7a

If cases pending in two or more district courts or two or more courts of appeal are related as stated in Sections 1 through 6, upon application by a party or upon notice from a district court or a court of appeal, the Supreme Court may order that the cases be joined in proceeding in one of the courts, if this would have substantial advantages for the handling of the cases and not significantly inconvenience any party. If it becomes appropriate, the court which shall deal with the cases may separate them.

Decisions made in a case that is transferred from one court to another pursuant to Supreme Court order, shall remain in effect, unless the court designated for the case otherwise directs. (SFS 1987:747)

Section 8

If there is more than one plaintiff or defendant, each of them is treated as an independent party against the opposing party or parties.

When the nature of the matter at issue requires that all interested parties be bound by the same judgment, any procedural act by one of the co-parties operates to the advantage of all of them, even if the act was contrary to acts of other co-parties.

Section 9

Anyone not a party to pending proceedings who states that the matter at issue bears on his legal right or obligation, and who shows probable cause for his statement, may appear as an intervenor in the litigation on the side of either the plaintiff or the defendant.

Section 10

Anyone seeking to participate in pending proceedings as an intervenor shall make an application to the court. The parties shall be heard concerning the application. If there is reason, the court may order a hearing, to be attended by the parties and the applicant. The court shall decide on the application as soon as possible.

Section 11

An intervenor may take any procedural act open to the party; he may not, however, amend the party's action or otherwise act in opposition to the party, or appeal from a judgment or decision except by supporting the appeal of the party.

When, however, by reason of the nature of the matter at issue or otherwise, the intervenor will be bound by the judgment issued in the action to the same extent as if he had been a party, he has full standing as a party in the proceeding.

Section 12

Any party who considers that a third person is entitled to intervene in the litigation may notify the third person and request that he appear in the proceedings.

A person so notified may in turn notify another person whom he considers to be entitled to enter the proceedings.

There are special provisions regarding a party's obligation in certain situations to give notice of the proceedings.

Section 13

Notice that proceedings are pending is given by service of a written declaration. The declaration shall also be served upon the opposing party. The declaration shall state the matter at issue and the reason for the measure being taken.

Chapter 15

PROVISIONAL ATTACHMENT AND OTHER SECURITY MEASURES

Section 1

If a person shows probable cause to believe that he has a money claim that is or can be made the basis of a judicial proceedings or determined by another similar procedure, and if it is reasonable to suspect that the opposing party, by absconding, removing property, or other action, will evade payment of the debt, the court may order the provisional attachment of so much of the opponents property that the claim may be assumed to be secured on execution. (SFS 1981:828)

Section 2

If a person shows probable cause to believe that he has a superior right to certain property that is or can be made the basis of a judicial proceedings or determined by another similar procedure, and if it is reasonable to suspect that the opposing party will conceal, substantially deteriorate, or otherwise deal with or dispose of the property to the detriment of the applicant, the court may order provisional attachment of that property.(SFS 1981:828)

Section 3

In cases other than those referred to in Section 1 or 2, if a person shows probable cause to believe that he has a claim against another that is or can be made the basis of judicial proceedings or determined by another similar procedure, and if it is reasonable to suspect that the opposing party, by carrying on a certain activity, by performing or refraining from performing a certain act, or by other conduct, will hinder or render more difficult the exercise or realization of the applicant's right or substantially reduce the value

of that right, the court may make an order for measures suitable to secure the applicant's right.

A measure under the first paragraph may include: prohibition, subject to a default fine, of carrying on a certain activity or performing a certain act or an order, subject to a default fine, to have regard to the applicant's claim or the appointment of a receiver or the issue of a direction suitable in other ways to safeguard the applicant's right.(SFS 1981:828)

Section 4

In pending proceedings concerning superior right to certain property, if it is shown that one of the parties has unlawfully disturbed the opposing party's possession, or has taken any other unlawful measure regarding the property, the court may order the immediate restoration of possession or other immediate redress. (SFS 1981:828)

Section 5

Orders for the measures mentioned in this chapter are issued by the court where the proceedings are pending. When no proceedings are pending, the rules of competence in civil disputes shall determine the competent court. However, the provisions limiting the competence of courts regarding disputes to be resolved through a means other than before a court shall not apply.

A measure under this chapter may be taken only upon application. When no proceedings are pending, the application shall be made in writing.

No application may be granted unless the opposing party has been given an opportunity to respond. If delay places the applicant's claim at risk, however, the court may immediately impose a security measure, to remain effective until otherwise ordered.

When no proceedings are pending, other aspects of a measure under Section 1, 2, or 3 shall be governed by the provisions that would apply if the matter had been raised in proceedings. A request by the applicant's opponent to be reimbursed for his litigation costs, however, may be ruled upon together with the determination by the court of the application for the security measure. (SFS 1981:828)

Section 6

No measure pursuant to Section 1, 2, or 3 may be granted unless the applicant deposits with the court security for the loss that the opposing party may suffer. If the applicant lacks means to furnish security, however, and if he has shown extraorindary reasons for his claim, the court may waive the security requirement. The state, municipalities, county councils, and local community organizations are not required to deposit security.

On what qualifies as security, the Enforcement Code, Chapter 2, Section 25, governs. Tendered security shall be examined by the court if it has not been accepted by the opposing party. (SFS 1981:828)

Section 7

When a measure authorized by Section 1, 2, or 3 has been granted, if an action has not already been instituted, the applicant shall, within a month of the order, either institute a court action on the matter at issue or, if the claim is to be resolved out-of-court, initiate the appropriate proceeding. An action not subject to adjudication by a court or other public authority shall be deemed initiated when the applicant has notified his opponent of his demand for resolution of the claim or the requisite procedure has been commenced in another way.

If an action has not been pursued as required by the first paragraph, the security measure shall be lapse immediately.(SFS 1981:828)

Section 8

A security measure granted under Section 1, 2, or 3 shall be cancelled immediately if security satisfying the purpose of the measure is furnished or when there is no longer cause for the measure. If the proceedings instituted concerning the matter at issue are withdrawn or dismissed, the measure shall also be cancelled immediately.

Questions concerning cancellation of security measures shall be decided by the court in which the proceedings are pending or, when no judicial proceedings have been instituted, by the court that first ruled on the measure.

When the matter at issue is subject to proceedings and the case is adjudicated, the court shall determine whether the measure shall continue in effect. In conjunction with its judgment, the court may also order any of the measures mentioned above. (SFS 1981:828)

Section 9

On the request of a party, if there is reason, the court may rescind an order under Section 4.(SFS 1981:828)

Section 10

The provisions in the Enforcement Code shall apply to the enforcement of measures for which this chapter provides. If necessary, the court may issue further prescriptions on enforcement. (SFS 1981:828)

Chapter 16

VOTING

Section 1

If upon deliberation there are diverging opinions on a judgment or decision, voting shall take place.

In voting, the judges shall declare their opinions in reverse order of their length of service, but the chairperson of the court shall vote last, irrespective of length of service. If a judge on the bench has presided at the preparation of the case, he votes first.

Each member of a court shall state the grounds upon which he rests his opinion. (SFS 1969:244)

Section 2

The court shall vote separately on procedural issues.

If the matter at issue involves several claims, the court shall vote separately on each claim. It shall also vote separately on a debt asserted as a set-off. If there are separate issues of fact, each of which may bear directly on the outcome of a claim, such issues shall be posed for separate voting, if required by the nature of the matter at issue. The court shall vote separately on litigation costs.

A member of the court not in the majority on a particular issue must participate in subsequent voting.

Section 3

The vote of the majority shall prevail. In the event of a tie, the vote of the presiding judge is decisive. (SFS 1993:514)

Section 4

During the voting, if there are more than two opinions, none of which prevails pursuant to Section 3, and the issue concerns a monetary demand or any other quantitative demand, the votes for the highest amount shall be counted with the votes for the next highest amount and, if necessary, the counting shall continue on the same basis until a determination with the required support is reached; in other situations, the opinion receiving the most votes or, when two or more opinions tie, the opinion supported by the foremost member among those voting for one of these opinions shall prevail. (SFS 1969:244)

Section 5

Disagreements about how voting shall proceed or which opinion shall prevail shall be resolved by voting.

Section 6

When a question of criminal responsibility, final adjudication of a default fine, or detention of a person is presented in a civil case, the voting provisions of Chapter 29 shall apply. (SFS 1981:828)

Section 7

Repealed by SFS 1969:244.

Chapter 17

JUDGMENTS AND DECISIONS

Section 1

A court's determination on the merits of the matter at issue an action is made in a judgment. The determination of other matters is made by a decision. A decision, other than a judgment, that disassociates a court from a matter at issue is a final decision as is a superior court’s decision on such matter if it has been appealed against separately.

Section 2

If a main hearing has been held, the judgment shall be based upon material presented at that hearing. A judge may not participate in the judgment unless present throughout the main hearing. If a new main hearing has been held, the judgment shall be based upon material presented at that hearing. In cases subject to Chapter 43, Section 14, second sentence, the judgment may also be based upon material presented after the main hearing.

When a case is adjudicated without a main hearing, the judgment shall be based on the contents of the documents and what otherwise emerged in the case. (SFS 1987:747)

Section 3

A judgment may not be given for something else or more than that properly demanded by a party. In cases amenable to out-of-court settlement, the judgment may not be based on circumstances other than those pleaded by a party as the foundation of his action.

Section 4

When several actions that could be separated are joined in one proceeding, the court may give a separate judgment on any of the actions, although adjudication of the remaining actions has not been completed. A main debt claim and a debt asserted by the defendant as a set-off, however, must be adjudicated simultaneously. When a single claim is conceded, a separate judgment may be given regarding that part.

Section 5

If adjudication of one claim depends on the adjudication of another claim joined in the same proceeding, a separate judgment may be given for that other action.

If it is appropriate having regard to the investigation, the court may give a separate judgment on one of several circumstances that are each individually of immediate importance to the outcome of the case or on how a certain issue raised in the case and primarily relating to the application of law is to be judged when determining the matter at issue.

When rendering a separate judgment pursuant to this section, the court may order a stay of proceedings on the remaining issues in the case until the separate judgment enters into final force. (SFS 1990:443)

Section 6

If the parties agree on a settlement of the dispute, the court, upon request of both parties, shall enter a judgment confirming the settlement.

Section 7

A judgment shall be in writing and specify in separate sections:
1. the court, time, and place of pronouncement of the judgment;
2. the parties and their attorneys or counsel;
3. the final judgment;
4. the parties' demands and objections, and the circumstances on which they are founded; and
5. the reasoning in support of the judgment, including a statement of what has been proved in the case.

A judgment rendered by a superior court shall, to the extent necessary, describe the judgment of the lower court.

If a party is entitled to appeal from a judgment or apply for the reopening of a default judgment, the judgment shall state the steps he must take to do so. (SFS 1994:1034)

Section 8

A default judgment, a judgment granting the action of the plaintiff by reason of the defendant's consent, or a judgment by a superior court confirming the judgment of a lower court may be rendered in simplified form. (SFS 1976:567)

Section 9

Before rendering judgment, the court shall meet to deliberate.

When a main hearing has been held, deliberation shall take place either on the same day or on the next working weekday and, if possible, the judgment shall be made and delivered. When the nature of the case is such that a period of time for deliberation is required to determine and draw up the judgment, the court may decide to defer it; however, unless there is an extraordinary obstacle, the judgment shall be pronounced in writing within two

weeks of the conclusion of the main hearing. If the judgment is not delivered at the main hearing, it shall be delivered at another session of the court, or pronounced by being available at the court's registry; at the conclusion of the main hearing, the court shall give notice of the time and manner for pronouncement of judgment.

The rules mentioned here concerning disposals after a main hearing shall also apply when cases are finally adjudicated at an oral preparatory hearing.

In other situations in which a case is adjudicated without a main hearing, the deliberation shall take place and the judgment shall be decided, drawn up in writing, and pronounced as soon as possible. Pronouncement shall be effected by making the judgment available at the court's registry.

Delivery of a judgment may be effected by reporting the final judgement and the reasoning in support of the judgment and by giving notice of the means of appeal.

The parties shall be notified of any dissenting opinions at the same time and in the same manner as the judgment.

When a case is determined, the parties shall be given prompt written notice of the outcome. (SFS 1987:1097)

Section 10

Every judgment shall be separately drawn up and signed by each of the legally qualified judges participating in the adjudication.(SFS 1996:247)

Section 11

Upon the expiration of the time for appeal, a judgment acquires legal force to the extent that it determines the matter at issue in respect of which the action was instituted.

A judgment also has legal force to the extent that it adjudicates a debt claimed as a set-off.

A question thus determined may not be adjudicated again.

There are specific provisions applicable to extraordinary remedies.

Section 12

The provision of Sections 2 and 9 concerning judgments also apply to final decisions. In addition, if the nature of the matter so requires, the provisions in Sections 7 and 10 shall apply to such a decision. When a final decision is rendered in conjunction with a judgment, the final decision shall be included in the judgment.

If a party is permitted to appeal or to apply for reinstatement of the case, the decision shall state the steps he must take to do so. (SFS 1994:1034)

Section 13

A decision which is not final shall state, to the extent necessary, the reasoning supporting the decision.

If a person who wishes to appeal against a decision made during the proceedings must give formal notice of intention to appeal this shall be stated in the decision. If an appeal from such an order may be brought separately, this shall also be stated in the decision. The court shall, on request, provide a person wishing to appeal with information concerning the other steps he must take to do so.

If a decision which is not final is pronounced together with a judgment or final decision, it shall be included in the judgment or final decision. If an appeal from the order may be brought separately, the court shall state the steps to be taken by the person wishing to appeal. (SFS 1994:1034)

Section 14

If there is reason for so doing, the court may in its judgment order that the judgment may be enforced though it has not entered into final force. In such instances, the court may if there is reason require that security be furnished to cover the damages for which a party may be liable if the judgment is changed.

Decisions made during the proceedings that cannot be appealed against separately shall be immediately enforceable. The same applies to decisions by which the court has:
1. dismissed an attorney or counsel;
2. denied a third party's application to participate as an intervenor in an action;
3. ruled on the compensation or advance payment to a counsellor, witness, expert or any other person who is neither a party nor an intervenor;
4. ordered that a person be held in detention, ordered provisional attachment or any other measure pursuant to Chapter 15, or cancelled such a measure;
5. appointed as counsel a person other than the one proposed by the party; or
6. ruled, in situations other than those referred to in items 3 or 5, on a matter relating to legal aid, except a decision concerning liability for compensation pursuant to the Legal Aid Act (1996:1619), Section 30.

The provisions of the first paragraph shall apply to a decision ordering a party or third person to produce evidence in writing or make an object accessible for view or inspection.

Any special provision that a judgment or decision which has not entered into final force may be enforced shall apply. (SFS 1996:1624)

Section 15

If the court considers that a judgment or decision that contains a manifest error attributable to a clerical mistake, a miscalculation, or similar oversight by the court or somebody else it may decide on rectification.

If the court has neglected to issue a decision that should have been rendered together with a judgment or final decision, the court may supplement its determination within two weeks of the pronouncement of the determination.

Before making a decision concerning rectification or supplementation, the court shall afford the parties an opportunity to be heard unless it is manifestly unnecessary. The decision shall, if possible, be endorsed on all copies of the determination that has been rectified. (SFS 1990:443)

Chapter 18

LITIGATION COSTS

Section 1

The losing party shall reimburse the opposing party for litigation costs unless otherwise provided.

Section 2

If a case concerns a legal relationship that by law may not be settled by other means than a judgment, the court may order that each party bear his own litigation costs.

Section 3

If the winning party is found to have initiated the action without the opposing party having given cause for it, or if the winning party has otherwise intentionally or negligently caused unnecessary litigation, the winning party shall reimburse the opposing party for the latter's litigation costs, or, if the circumstances so justify, each party shall bear his own costs.

If the circumstances upon which the outcome rested were not known nor should have been known by the losing party prior to the commencement of the action, the court may order that each party bear his own costs.

Section 3a

If the winning party initiated the action by summons application, even though the matter at issue could just as well have been resolved under the Summary Process Act (1990:746), reimbursement for his litigation costs shall be limited to what he would have been able to obtain in such a process. (SFS 1990:747)

Section 4

If in several claims are contained in the same case and the parties win in different parts respectively, each party shall be required to bear his own costs, or one of the parties shall be awarded an adjusted compensation for his costs, or, if the costs attributable to different parts of the case are possible to separate, the liability to compensate for costs shall be determined correspondingly. If the that part which a party lost is of only minor importance, however, he may receive full compensation for costs.

If only a part of a party's claim is granted, the preceding paragraph shall correspondingly apply.

Section 5

A party whose action is dismissed is deemed the loser.

If a party’s action is written off following his withdrawal of the action or by reason of his failure to appear, he shall reimburse the opposing party for his costs unless special circumstances give cause for the liability to compensate to be otherwise determined.
If the parties agree on a settlement of the dispute, each party shall bear his own costs unless otherwise agreed.

Section 6

If a party's failure to appear or to comply with a court order, his presentation of a claim or defence that he knew or should have known to be without merit, or his carelessness or oversight in other respects has occasioned adjournment of the case or has otherwise caused costs for the opposing party, he must reimburse the opposing party for such costs, regardless of how litigation costs in general are to be borne.

Section 7

If, pursuant to this chapter, a party shall provide compensation, in whole or in part, for the opposing party's litigation costs, and it is found that the party's legal representative, attorney or counsel has caused the costs by conduct described in Section 3, paragraph 1, or by carelessness or oversight of the kind referred to in Section 6, the court, even if not so requested, may impose liability on him, together with the party to compensate the costs.

Section 8

Compensation for litigation costs shall fully cover the costs of preparation for trial and presentation of the action including fees for representation and counsel, to the extent that the costs were reasonably incurred to safeguard the party's interest. Compensation shall also be paid for the time and effort expended by the party by reason of the litigation. Negotiations aimed at settling an issue in dispute that bear directly on the outcome of a party's action are deemed to be measures for the preparation of the trial.

Compensation for litigation costs shall also include interest under the Interest Act (1975:635), Section 6, running from the date of the court's determination until the date of payment. (SFS 1987:328)

Section 8a

In cases where Chapter 1, Section 3d, paragraph 1, apply, the following shall apply instead of the provisions of Section 8.

Compensation for litigation costs may not include costs for anything except:
1. counselling limited to one hour per occasion for each instance and at an amount that correspond with at most the remuneration paid for advice under the Legal Aid Act (1996:1619) for one hour;
2. application fee;

3. travel and subsistence for the party or legal representative for appearance at a court session, or, when personal attendance is not required, travel and maintenance for the attorney;
4. witness testimony;
5. translation of documents.

Compensation is granted only to the extent that the costs were reasonably incurred to safeguard the party's interest.

Compensation authorized by clause 3 shall be awarded in accordance with regulations issued by the government.

If the case initially was processed in another manner than that applicable to cases referred to in this section, compensation for costs incurred during the earlier proceedings is governed by the rules on costs applicable to those proceedings.

If a case commenced by a summary process application is referred to a district court, and is thereafter decided against the defendant by default judgment, compensation may include a reasonable fee for one written presentation or for one appearance at a court session. Such additional compensation shall be awarded in accordance with government regulations, unless the particular circumstances otherwise indicate. (SFS 1996:1624)

Section 9

If compensation for litigation costs is to be furnished by several parties joined on the same side, such parties are jointly and severally liable for the costs. To the extent that items of cost are chargeable to a portion of the action involving only one of the parties or that one of the parties has occasioned costs by carelessness or oversight of the kind described in Section 6, however, that party shall pay them solely.

If a person is liable under Section 7 to reimburse litigation costs together with a party, he and the party are jointly and severally liable.

Section 10

If a party has taken over the plaintiff's action pursuant to chapter 13, section 7, he and the plaintiff are liable, jointly and severally, for the litigation costs incurred prior to the taking over; costs incurred after the taking over shall be borne solely by that party.

A person who takes over the place of the defendant is solely liable for the litigation costs.

Section 11

When two or more persons are jointly and severally liable for litigation costs, the court, on request of one of them and based on the circumstances, may specify the portion of the costs each should bear, or authorize complete indemnification of one or more by the other.

Section 12

The provisions in this chapter concerning parties shall apply correspondingly to the liability for litigation costs of an intervenor who lacks party standing, and the right of such an intervenor to be compensated for his costs; however, an intervenor shall be solely liable for the special costs occasioned by his intervention. The party supported by the intervenor may not be directed to pay compensation for such costs.

Section 13

If costs for evidence or other measures are to be paid by the parties jointly and severally, the provisions of this chapter relating to

litigation costs apply concerning liability to pay such costs. If each party bears should bear his own costs, the court may decide that the costs shall be apportioned equally between the parties. Public funds expended to bring a party to court shall be paid by that party.

Special provisions have been made concerning liability to compensate the state for costs resulting from a party having been granted legal aid. (SFS 1996:1624)

Section 14

A party seeking reimbursement for litigation costs shall present a demand for his costs before the termination of the proceedings. In that connection he shall state the nature of the costs. If he fails to make such demand within the prescribed time, he may not subsequently present a claim for costs incurred in the same court. However, despite the absence of a demand, the winning party is entitled to the interest referred to in Section 8, paragraph 2, and to costs for a copy of the judgment or final decision.

The court shall, on its own initiative, consider questions concerning the application of the provisions of Sections 1 through 10, 12, and 13, unless investigation of such consideration is unnecessary because of particular circumstances. Rulings on litigation costs covered by this chapter shall be made when the court determines the case. If attorney's and counsel’s fees are to be reimbursed, the amount of the fees shall be stated. (SFS 1987:747)

Section 15

Liability to pay litigation costs incurred on appeal from a lower court shall be based on the outcome of the litigation in the superior court.

The provisions laid down in this chapter concerning actions commenced in lower courts shall apply correspondingly liability for

costs incurred in the superior court in proceedings on issues separately appealed to that court.

If a case is referred back to a lower court, the issue of costs incurred in the superior court shall be determined in conjunction with the case when resumed.

Section 16

In a case where a public authority acts on behalf of a public interest but the action does not concern protection of the private civil rights of the state or of a private person, the provisions of Chapter 31 regarding litigation costs shall apply, unless otherwise provided. (SFS 1990:443)

II. PROCEEDINGS IN CRIMINAL CASES

Chapter 19

COMPETENT COURT

Section 1

The competent court for criminal cases is the court for the place where the offence was committed. The offence is considered to have been committed at the place where the criminal act was done and, if the offence was completed or, in the case of an attempt, would have been completed, at another place, also at that place. If the offence was committed at places in different court districts they are equally competent. If the offence was committed on a Swedish vessel or aircraft during a journey in or outside the Realm, the court for the place where the suspect first arrives on board the vessel or aircraft, or where he was apprehended or otherwise sojourns is competent.

If, when the prosecution is instituted, there is doubt concerning the place where the offence was committed, the prosecution may be entertained in the court for any of the places in which the offence may reasonably be thought to have been committed, or for the place in which the suspect was apprehended or otherwise sojourns.

The prosecution may also be entertained by the court in which the suspect is required to answer in civil cases in general, or by the court for the place in which he permanently stays, provided that the court, in view of the inquiry, costs, and other circumstances, considers it appropriate. (SFS 1957:299)

Section 2

Unless as to a particular case the government prescribes otherwise, prosecution for an offence committed outside the Realm, or on a foreign vessel or aircraft during a journey in or outside the Realm,

shall be entertained by the court in which the suspect is required to answer in civil cases in general, or in the court for the place where the suspect was apprehended or otherwise sojourns. (SFS 1974:573)

Section 3

Prosecutions against two or more persons for joint commission of an offence, when commenced simultaneously, may be instituted at the court in which any of them is required to defend. When the prosecutions are instituted at different times, the court entertaining a prosecution against any one of them may also entertain the prosecution against any other or the others. (SFS 1948:453)

The aforesaid shall also apply to other prosecutions against two or more persons for offences connected with each other, if that the court, in view of the inquiry, costs, and other circumstances, finds it appropriate to entertain the prosecutions at the same court. (SFS 1948:453)

Section 4

Actions concerning liability for false or unjustified prosecution, false accusation, or other untrue statement, resulting in a prosecution, may be instituted at the court in which the offence was prosecuted. (SFS 1948:453)

Section 5

A procedural offence shall be adjudicated by the court entertaining the proceedings.

When a person commits an offence of another kind before a court in session, the same court may adjudicate the matter, if it is considered appropriate in view of the nature of the offence and other circumstances.

Section 6

When a person has committed two or more offences, prosecution for all the offences may be instituted in a court competent to entertain the prosecution of any one of them, if that court considers it appropriate in view of the inquiry, costs, and other circumstances.

Section 7

Once the summons has been served upon the suspect, the court remains competent to try the case despite changes in the circumstances upon which its competence was grounded.

If a public prosecution has been instituted in a particular district court, that court, on the prosecutor's request, may transfer the case to another district court, if the latter court is competent and there is special reason. If the defendant is already undergoing prosecution at the latter court, the transfer shall be made unless it is inappropriate. Decisions made prior to the transfer remain in effect unless the transferee court otherwise directs.

The second paragraph shall also apply, to the extent applicable, when two or more public prosecutions against the same defendant are simultaneously pending in different courts of appeal. (SFS 1987:747)

Section 8

When a court summarily dismisses a criminal case on the ground that it is not competent, that court, pending institution of the prosecution in the proper court, may make such decisions as cannot be postponed without risk.

Section 9

When according to an act or regulation a prosecution shall be entertained immediately by a superior court or by a lower court other than the one in which the suspect, pursuant to Section 1 or 2, is required to answer, no prosecution may be entertained by any other court by reason of the provisions in this chapter. When issues of criminal liability are entertained by an authority other than a court, or by a special court, the provisions laid down by this chapter do not apply.

Any agreement in which a person has promised to institute a prosecution, or to defend at a specified court, shall be without effect.

Section 10

When a lower court has entertained a case, the issue of the competence of that court may not be entertained by a superior court unless the issue is appealed to the superior court, or is raised there by a party entitled to do so, or the case must be entertained by an authority other than a court, a special court, a superior court, or another ordinary lower court other than the one in which the suspect, pursuant to Section 1 or 2, is required to answer.

Section 11

When a superior court makes a decision that the lower court below lacked competence to entertain a case instituted in that court, the superior court, on request of a party, may refer the case to a lower court considered competent.

When separate courts have been considered to lack competence by decisions which have entered into final force, the Supreme Court, on the application of a party, and upon finding any of the courts

competent, may refer the case to the court in which the prosecution should proceed.

Section 11a

If the court considers, in conjunction with an application being presented, that the court is not competent to entertain the case or to consider the application by another procedure, but that another court is authorized, the application shall be passed on to that court, provided that neither the applicant objects to this and there is no other reason against passing the application on. The application shall be deemed to have been received to the latter court on the same date that it was received by the court that received it first. (SFS 1996:247)

Section 12

The provisions in this chapter shall also apply to issues of the authority of the courts with regard to preliminary investigations and application of coercive measures.

If special reasons subsist, a question of detention may also be entertained by a court at another place than that provided under the rules in this chapter. (SFS 1987:1211)

Chapter 20

RIGHT TO PROSECUTE; AGGRIEVED PERSONS

Section 1

An issue of criminal liability may not be entertained by the court unless a prosecution for the offence has been instituted. However, the issue of liability for a procedural offence, may be entertained by the court without the institution of a prosecution.

Section 2

Unless otherwise prescribed, a public prosecutor is empowered to prosecute offences falling within the domain of public prosecution.

Specially enacted provisions regulate the power of special prosecutors to prosecute offences falling within the domain of public prosecution.

Prosecutors may appeal to a superior court even for the benefit of the suspect.

Section 3

All offences, other than those expressly excepted, fall within the domain of public prosecution.

Special conditions prescribed for certain public prosecutions, for example, permission of an authority or accusation by an aggrieved person, must be observed.

Section 4

If the same act involves more than one offence, and any of the offences falls within the domain of public prosecution, the public prosecution may encompass all such offences.

If a person has been accused of an offence that falls within the domain of public prosecution only upon accusation by an aggrieved person, and two or more persons are suspected of having participated in the commission of the offence, the public prosecution may include all such persons.

Section 5

An aggrieved person may report an offence for prosecution with any prosecutor or police authority. If the accusation has been made to an authority at a place other than one in which the prosecution may be instituted, the accusation shall be transmitted immediately to the authority at that other place.

Section 6

Unless otherwise prescribed, prosecutors must prosecute offences falling within the domain of public prosecution. (SFS 1964:166)

Section 7

Prosecutors may waive prosecution (waiver of prosecution), provided no compelling public or private interest is disregarded:
1. if it may be presumed that the offence would not result in another sanction than a fine;
2. if it may be presumed that the sanction would be a conditional sentence and special reasons justify waiver of prosecution;
3. if the suspect has committed another offence and no further sanction in addition to the sanction for that offence is needed in respect of the present offence; or

4. if psychiatric care or special care in accordance with the Act on Support and Service for Certain Persons with Functional Impairments (1993:387) is rendered.

A prosecution may be waived in cases other than those mentioned in the first paragraph if it is manifest by reason of special circumstances that no sanction is required to prevent the suspect from engaging in further criminal activity and that, in view of the circumstances, the institution of a prosecution is not required for other reasons. (SFS 1997:726)

Section 7a

A decision to waive prosecution may be made even after the institution of a prosecution when circumstances emerge that, had they existed or been known at the time of the prosecution, would have led to waiver of prosecution. Prosecution may not be waived, however, if the defendant objects or after judgment has been rendered. (SFS 1981:1285)

Section 7b

A waiver of prosecution may be withdrawn if special reasons so require. (SFS 1985:13)

Section 8

The aggrieved person may not institute a prosecution for an offence falling within the domain of public prosecution unless he has reported the offence for prosecution and the prosecutor has decided not to institute a prosecution.

When a prosecutor has instituted a prosecution, the aggrieved person may support the prosecution; he may also appeal to a superior court.

The condition stated in the first paragraph does not limit the right of an aggrieved person to institute a prosecution for false or unjustified prosecution, false accusation, or any other untrue statement concerning an offence. (SFS 1948:453)

The aggrieved person is the person against whom the offence was committed or who was affronted or harmed by it. (SFS 1964:166)

Section 9

A public prosecution may not be withdrawn after the entry of judgment.

When a public prosecution is withdrawn on the ground that there is insufficient reason to believe that the suspect is guilty of the offence, the aggrieved person may take over the prosecution; he must, however, notify the court of this within the time, at most one month, determined by the court, after he became aware of the discontinuance. If the aggrieved person does not take over the prosecution, he may not thereafter institute a prosecution for the offence; if requested by the suspect, a judgment of acquittal shall be pronounced.

Section 10

The provisions in Sections 8 and 9 concerning the right of the aggrieved person to institute a prosecution or to take over an instituted prosecution do not apply to offences committed in carrying out a public office or commission by:
1. government ministers;
2. Justices of the Supreme Court or the Supreme Administrative Court;
3. a Parliamentary Ombudsman or his delegate;
4. any other officer who, according to the Riksdag Act or other statute, is subject to prosecution for only on the decision of a standing committee of the Riksdag or other organ of the Riksdag;

5. the Chancellor of Justice or his delegate, or
6. Judge or Attorney-General of the European Court of Justice or Judge of the Court of First Instance at that court. (SFS 1995:315)

Section 11

When, with respect to the same offence, there are two or more aggrieved persons, any accusation made or prosecution instituted by one of them shall apply for the benefit of all of them.

Section 12

When the aggrieved person, by settlement out of court or otherwise, has promised not to report or institute a prosecution, or when the aggrieved person has withdrawn his accusation or prosecution, he may thereafter neither report the offence institute a prosecution. If the offence falls within the domain of public prosecution only upon accusation by an aggrieved person, and the promise not to accuse was made or the accusation withdrawn before the institution of a public prosecution, the offence may not subsequently be subject of public prosecution.

Section 13

When a criminal act has resulted in the death of a person, the decedent's surviving spouse, direct heir, father, mother or sibling succeeds to the right of the aggrieved person to report the offence or prosecute the offence.

When the person against whom the offence was committed, or who was affronted or harmed by it, dies, the persons related to him as aforesaid have the same right to report or prosecute the offence if the circumstances do not indicate that the deceased would have chosen not to report or prosecute the offence. (SFS 1971:875)

Section 14

If the aggrieved person is a minor, and the offence concerns either property over which he does not exercise control or a legal transaction that he is not competent to effect, his legal representative may report or prosecute the offence. The same right to proceed on behalf of an aggrieved person is afforded to an administrator appointed pursuant to the Code on Children, Parents and Guardians with respect to property or a legal transaction covered by the administrator's assignment. If the offence involves a personal injury to the minor, the person who has custody of the child may report or prosecute the offence. The provisions in Chapter 11, Sections 2 through 5, concerning parties and legal representatives in civil actions, shall apply with regard to an aggrieved person even if that person is not a party.

The provisions in Chapter 12 shall apply to attorneys for aggrieved persons. (SFS 1988:1260)

Section 15

An aggrieved person, who is examined in aid of the prosecution's case, may be accompanied at the examination by a suitable person as support (supporting person) during the trial. A supporting person known to the court shall, if possible, be given notice of the trial.

In certain cases, counsel for the aggrieved person can be appointed pursuant to the Act concerning Counsel for the Aggrieved person.

Counsel for the aggrieved person shall be summoned to the main hearing, or other sessions of the court, at which the aggrieved person or the legal representative of the aggrieved person is to be examined. (SFS 1994:420)

Section 15a

Repealed by SFS 1987:747.

Section 16

When by an act or ordinance the prosecution of an offence may be instituted by a private person other than the aggrieved person, he shall be regarded as the aggrieved person in relation to matters concerning the right to report and prosecute an offence and to institute a prosecution.

Chapter 21

THE SUSPECT AND HIS DEFENCE

Section 1

The suspect has the right to conduct his own case. If the suspect is a minor, the court shall hear from the suspect's custodian when the character of the offence or other considerations so warrant; the custodian, furthermore, has the right to conduct the defence on behalf of the minor.

The surviving spouse, direct heir, father, mother, or sibling of a suspect who has died may appeal from a judgment to the extent that the judgment declares that the suspect committed the act. (SFS 1971:875)

Section 2

The suspect is bound to attend in person the main hearing in the district court and the court of appeal. However, the suspect is not so bound if the case is one that can be disposed of even if he does not appear and his presence at the hearing may be presumed to be without importance to the inquiry.

At the main hearing in the Supreme Court, the suspect shall appear in person if the Court consider his presence necessary to the inquiry.

At a preparatory meeting or other hearing, the suspect shall appear in person if it may be assumed that his presence will promote the purpose of the session.

When the suspect is bound to appear in person, the court shall so order.

When the suspect is not required to appear in person, his defence may be presented by attorney. The provisions of Chapter 12 shall apply to attorneys. (SFS 1987:747)

Section 3

In preparing and conducting his defence, the suspect may be assisted by defence counsel.

The defence counsel is designated by the suspect. If the suspect is under eighteen years of age or suffers from a serious mental disturbance, the defence counsel is appointed by the person who has the custody of him. If the suspect has appointed an attorney, that attorney is regarded as defence counsel.

A person may not serve as defence counsel if he has, or has had, a professional or financial relationship with the suspect and the circumstances are likely to cast doubt on his ability to fulfil the responsibilities applicable to a defence counsel under with Section 7, paragraph 1. Foreign nationals or a person who is resident outside the Realm may not act as defence counsel if this is inappropriate having regard to the security of the Realm. The provisions of Chapter 12, Sections 2 through 5 and Section 6, paragraph 2, shall otherwise apply to defence counsel. (SFS 1992:1511)

Section 3a

If a suspect under arrest or detained so requests, a public defence counsel shall be appointed for him. A public defence counsel shall also be appointed upon request for a person who is suspected of a offence in respect of which a less severe sentence than six months imprisonment is not prescribed.

A public defence counsel shall also be appointed
1. if a defence counsel is needed by the suspect in connection with the inquiry into the offence,
2. if a defence counsel is needed in view of doubt concerning which sanction shall be chosen and there is reason to impose a sentence for a sanction other than a fine or conditional sentence or such sanctions linked together, or
3. if there are otherwise special reasons relating to the personal circumstances of the suspect or the subject of the case.

If the suspect is represented by defence counsel that he designated, no public supporting defence counsel shall be appointed. (SFS 1983:920)

Section 4

Public defence counsel shall be appointed by the court; when the court has fully disposed of a case, it may appoint defence counsel, pending an appeal by the suspect or expiration of the time for filing an appeal, to assist the suspect in the superior court.

The court shall consider the appointment of a public defence counsel upon request, or when the court otherwise considers reason therefor.

Section 5

Only an advocate, who is considered suitable for the assignment, shall be appointed as public defence counsel. For special reason, another suitable person whose qualifications make him eligible for appointment as a judge may be appointed public defence counsel. The court should seek to engage advocates who regularly function as attorneys before the court.

When the suspect proposes as his public defence counsel a person competent to serve in that capacity, that person shall be appointed,

unless his engagement would substantially increase costs or special circumstances indicate that the appointment should not be made. (SFS 1972:–430)

Section 6

The court may revoke the appointment of a public defence counsel if the appointment becomes unnecessary or there is other valid reason for revocation. When the suspect himself selects another defence counsel, the appointment of a public defence counsel shall be revoked unless such revocation would cause extraordinary inconvenience.

A public defence counsel may not substitute another person to act in his place without the court's consent. (SFS 1983:920)

Section 7

Defence counsel shall protect the rights of the suspect with zeal and care with this aim strive and to this end work to ensure that the matter at issue is properly elucidated.

Defence counsel, through consultation with the suspect, should prepare the defence as promptly as possible.

Section 8

During the preliminary investigation and the court proceedings, defence counsel may make any request and take any measure required to protect the rights of the suspect and also, if the case is appealed, assist the suspect in the superior court.

Section 9

Defence counsel for an arrested or detained person shall not be denied access to such person. Defence counsel shall be permitted to

speak in private with the arrested or detained person; however, defence counsel other than public defence counsel only upon consent of the leader of the inquiry or of the prosecutor, or when the court considers it would neither impede the inquiry nor threaten order and security at the place of detention.

Public defence counsel and defence counsel appointed by the suspect, of whom notice has been given to the court, shall be summoned to attend the main hearing and other court hearing session.

Section 10

Public defence counsel shall receive reasonable compensation from public funds for work and time and for disbursements made in connection with the assignment. Compensation shall be determined on the basis of, as a starting point, the time taken that is reasonable with regard to the nature of and extent of the assignment and applying the hourly costs norms determined by the government.

The hourly compensation may deviate from the hourly costs norm if it is warranted by reason of the skill and care exhibited by counsel or other significant circumstances.

The government or the authority designated by the government shall prescribe the fee schedule to be followed in certain cases and issue rules on the computation of compensation for time lost.

Public defence counsel shall not demand or receive further remuneration from the suspect. If this has nevertheless occurred any such arrangement is void and the public defence counsel must repay to the suspect what he or she has received. (SFS 1996:1624)

Section 10a

A public defence counsel who has appealed a decision on compensation may adduce new circumstances in a superior court in support of the claim only if there are special reasons. (SFS 1988:214)

Section 11

Custodians heard pursuant to Section 1 are entitled to compensation and advances in accordance with the regulations laid down for compensation to witnesses. The compensation shall be paid by the state. (SFS 1971:240)

Section 12

A suspect who has been summoned to appear in person at a session may be awarded from public funds compensation for the expenses of travelling and subsistence if this is reasonable having regard to his or her financial circumstances, the expenses that may arise in connection with the appearance and the other circumstances. The court may grant an advance on the compensation.

Compensation is paid in accordance with rules issued by the government. (SFS 1996:1624)

Chapter 22

PRIVATE CLAIMS IN CONSEQUENCE OF OFFENCES

Section 1

A action against the suspect or a third person for a private claim in consequence of an offence may be conducted in conjunction with the prosecution of the offence. When the private claim is not entertained in conjunction with the prosecution, an action shall be instituted in the manner prescribed for civil actions.

Section 2

When a private claim is based upon an offence subject to public prosecution, the prosecutor, upon request of the aggrieved person, shall also prepare and present the aggrieved person's action in conjunction with the prosecution, provided that no major inconvenience will result and that the claim is not manifestly devoid of merit. If the aggrieved person desires to have his claim entertained together with the prosecution, he shall notify the investigation leader or the prosecutor of the claim and state the circumstances upon which it is based.

During the inquiry of an offence, if the investigation leader or the prosecutor finds that a private claim may be based upon the offence, he shall, if possible, notify the aggrieved person in sufficient time prior to the institution of the prosecution.

Paragraphs 1 and 2 shall apply also when the claim has been transferred to another person. (SFS 1988:6)

Section 3

When an action for private claims in consequence of a offence is entertained by the court in a separate case, the court, where

appropriate, may order that the action be consolidated with the prosecution.

Section 4

Chapter 14, Section 5 applies in relation to the rights of the defendant or another person, against whom the aggrieved person has instituted proceedings, or for a third party to institute proceedings for joint adjudication with the prosecution as mentioned in the said section.

Section 5

When an action for private claims has been consolidated with the prosecution, the court may order that the action be disposed of as separate case in the manner prescribed for civil actions, if further joint adjudication would cause major inconvenience. (SFS 1988:6)

Section 6

When a prosecution is withdrawn or dismissed, or when the aggrieved person is declared to have forfeited his right to prosecute the offence, the court, on request of a party, shall direct that the action for private claims be disposed of as a separate case in the manner prescribed for civil actions. If such a request is not made, the action shall be considered to have lapsed.

If a party withdraws a private claim after the opposing party has responded on the merits, the action shall nonetheless be tried on the merits if the opposing party so requests.

If such a request is not made, the action shall be deemed to have lapsed.

Section 7

If an action for private claims in consequence of an offence is conducted in conjunction with the prosecution, and it is found that the act charged is not punishable, the action may nonetheless be determined in the case. (SFS 1969:588)

Section 8

An action for a private claim based upon an offence falling within the domain of public prosecution under Chapter 20, Section 10, may not be instituted by the aggrieved person unless the offence is prosecuted or the action is supported by someone who has the authority to decide on such prosecution. (SFS 1981:1312)

Chapter 23

PRELIMINARY INVESTIGATION

Section 1

A preliminary investigation shall be initiated as soon as due to a report or for other reason there is cause to believe that an offence subject to public prosecution has been committed.

A preliminary investigation need not be initiated if it is manifest that it is not possible to investigate the offence. Sections 4 a and 22 provide that a preliminary investigation need not be initiated in certain other cases.

If an accusation is required to place the offence within the domain of public prosecution, a preliminary investigation may nevertheless commence without accusation if it would involve a risk to wait for an accusation. In such a case, the aggrieved person shall be notified as promptly as possible. If he does not then make the accusation required for prosecution, the preliminary investigation shall be discontinued. (SFS 1994:1412)

Section 2

During the preliminary investigation, inquiry shall be made concerning who may be reasonably suspected of the offence and whether sufficient reason exists for his prosecution and the case shall be prepared so that the evidence can be presented at the main hearing without interruption.

Section 3

A decision to initiate a preliminary investigation is to be made either by the police authority or by the prosecutor. If the investigation has been initiated by the police authority and the matter is not of a

simple nature, the prosecutor shall assume responsibility for conducting the investigation as soon as someone is reasonably suspected of the offence. The prosecutor shall also take over the conduct of the investigation if there special reasons so require.

A prosecutor conducting a preliminary investigation may enlist the assistance of a police authority. He may also direct a police officer to take particular measures in aid of the preliminary investigation when appropriate having regard to the nature of the measure.

Before the preliminary investigation has been initiated, a police officer may question persons or take other investigatory measures relevant to the inquiry. (SFS 1994:1412)

Section 4

At the preliminary investigation, not only circumstances that are not in favour of the suspect but also circumstances in his favour shall be considered, and any evidence favourable to the suspect shall be preserved. The investigation should be conducted so that no person is unnecessarily exposed to suspicion, or put to unnecessary cost or inconvenience.

The preliminary investigation shall be conducted as expeditiously as possible. When there is no longer reason for pursuing the investigation, it shall be discontinued.

Section 4a

A preliminary investigation may also be discontinued
1. if continued inquiry would incur costs not in reasonable proportion to the importance of the matter and the offence, if prosecuted, would not lead to a penalty more severe than a fine or
2. if it can be assumed that prosecution will not be instituted pursuant to the provision on waiver of prosecution contained in Chapter 20, or on special examination of prosecution and if no

substantial public or private interests would be ignored by the discontinuance of the preliminary investigation.

If the conditions for discontinuance of a preliminary investigation under the first paragraph exist already before such investigation has been initiated, it may be decided that a preliminary investigation shall not be initiated.

Decisions under this section shall be issued by a prosecutor. (SFS 1985–:13)

Section 5

If a public defence counsel shall be appointed for the suspect pursuant to Chapter 21, Section 3a, the leader of the investigation is under a duty to notify this to the court. The investigation leader shall also notify the court if the aggrieved person requests appointment of counsel for the aggrieved person or if there is otherwise reason to appoint such counsel. (SFS 1988:610)

Section 6

During the preliminary investigation, anyone who is reasonably likely to possess information relevant to the inquiry may be questioned.

Section 7

If a person ordered to appear for questioning fails to obey the summons without a valid excuse, and the person resided or was staying no more than fifty kilometres, by road, from the place fixed for the questioning when he received the order to appear, he may be brought in custody to the questioning.

If the offence under investigation is punishable by imprisonment, and there is a reasonable likelihood that the person sought to be

questioned would disobey a summons to appear, or that such person would, if notified of the questioning, impede the investigation by removal of evidence or otherwise, and that person is staying within fifty kilometres, by road, of the place where the questioning shall be held, he may be brought to the questioning without prior summons.

When the person to be questioned is under arrest or in detention, he shall be brought to the place fixed for the questioning. (SFS 1969:588)

Section 8

On direction of a police officer, anyone found at the scene of an offence is required to accompany the officer for questioning, which shall be held immediately. If such a person refuses to comply without a valid excuse, he may be brought to the questioning by the police officer.

The preceding paragraph shall also apply to persons present at a site adjacent to the scene where an offence was shortly before committed, if a less severe penalty than imprisonment for four years is not prescribed for the offence. This also applies to an attempt to commit such an offence.

The provisions of the first and second paragraph also apply before there has been time to initiate the preliminary investigation. (SFS 1994:1412)

Section 9

A person not under arrest or in detention is not obliged to stay for questioning longer than six hours. If there is extraordinary need to have a person suspected of an offence available for continued questioning, he is obliged to stay an additional six hours.

A person under fifteen years of age is not obliged to stay for questioning longer than three hours. In cases of extraordinary need, such a person is obliged to stay an additional three hours.

After the conclusion of the questioning, or after expiration of the time the questioned person is obliged to stay, he may immediately leave. The person shall not be required to appear at another questioning for at least twelve hours thereafter, without extraordinary reasons. (SFS 1984:955)

A person who may be suspected for an offence may be taken into custody during the period he is required to remain, provided this is necessary having regard to the purpose of the intervention, public order or security. (SFS 1998:24)

Section 10

If possible, a reliable witness summoned by the investigation leader shall be present at questioning.
The leader of the investigation shall determine whether any person other than the witness may attend a questioning. The suspect and his defence counsel are entitled to be present at a questioning held at the suspect's request pursuant to Section 18, paragraph 2. Defence counsel may also attend any other questioning if the presence of defence counsel would not be of detriment to the inquiry.

An aggrieved person's counsel is entitled to be present when the aggrieved person is questioned. This also applies to a supporting person if his presence would not be of detriment to the inquiry.

When the person questioned is under fifteen years of age, his custodian should be present at the questioning, if this would not be of detriment to the inquiry.

The investigation leader may direct that matters revealed at a questioning shall not be disclosed. (SFS 1994:420)

Section 11

The suspect or his defence counsel, when present at a questioning, may put questions to the person who is being questioned in the order prescribed by the investigation leader. Counsel for the aggrieved person may likewise pose questions when the aggrieved person is questioned. No other person present at a questioning may speak to the person being questioned during the course of an questioning without permission of the leader of the inquiry. (SFS 1988:610)

Section 12

The use of knowingly false information, promises or hints of special advantage, threats, force, questioning for an unreasonable length of time, must not be employed during a questioning aimed at eliciting a confession or statement of particular implication. The person questioned shall not be deprived of customary meals or necessary rest.

Section 13

If a person refuses to make a statement concerning a matter of importance to the inquiry, and that person would be required to give testimony as a witness in the event of a prosecution, or if it is otherwise of extraordinary importance to the inquiry that a person who is obliged to testify as a witness be questioned as a witness already while the preliminary investigation is still in progress, a witness examination may be held before the court at the request of the leader of the investigation.

A witness examination referred to in the first paragraph may not take place unless the preliminary investigation has advanced so far that a person is reasonably suspected of the offence. The provisions on the taking of evidence outside the main hearing shall apply, to

the extent appropriate, to such examination. The suspect shall be given the opportunity to be present at the examination.

Compensation for his appearance shall be paid out of public funds in accordance with regulations issued by the government. (SFS 1996:1624)

Section 14

The investigation leader may obtain the opinion of an expert. Before an opinion is obtained from anybody other than a public authority, the suspect or his defence counsel shall be given an opportunity to express his opinion on the choice of expert, unless special reasons dictate otherwise.

If an expert should be appointed by the court already during the preliminary investigation, the leader of the investigation may seek such an appointment. He may also request that the court issue an order to produce evidence in writing or to make an object available for inspection or order the submission at the preliminary investigation of a public document which may be relevant as evidence. (SFS 1990:443)

Section 15

If there is risk of evidence which is to be adduced at the main hearing being lost prior to that hearing or may be difficult to present at the hearing, the court, at the request of the leader of the investigation or the suspect, may immediately receive the evidence. To the extent appropriate, the provisions on taking evidence outside the main hearing shall apply to such evidence. The costs of taking the evidence and of the attendance of the suspect in court shall be paid out of public funds. Compensation for the suspect's attendance shall be paid in accordance with regulations issued by the government. (SFS 1996:1624)

Section 16

The provisions of Chapters 24 through 28 shall apply to the use of coercive measures during the preliminary investigation.

Section 17

During the preliminary investigation, if a questioning or any other measure is required at a place outside the district of the leader of the investigation, the leader may enlist the assistance of the police authority at the place where the measure shall be taken.

Section 18

When the preliminary investigation has advanced so far that a person is reasonably suspected of committing the offence, he shall, when he is heard, be notified of the suspicion. To the extent possible without impediment to the investigation, the suspect and his defence counsel shall be informed continuously of developments in the investigation. They shall also have the right to state what inquiries they consider desirable and otherwise consider to be necessary. A notice concerning these matters shall be delivered or sent to the suspect and to his defence counsel upon which they shall be afforded a reasonable time for counselling. Prosecution may not be decided before this is done.

At the request of the suspect or his defence counsel a person shall be questioned, or other inquiry be made, if this may be assumed to be relevant to the investigation. When such a request is denied, the reasons for the denial shall be stated.

Before the prosecutor decides on prosecution, he may have a special conference with the suspect or his defence counsel, if such a conference may be assumed to be of value when deciding on the prosecution or for future proceedings in the matter. (SFS 1987:747)

Section 19

If the investigation leader has concluded all inquiries he considers necessary without granting a request made pursuant to Section 18, paragraph 2, or when the suspect believes that there is any other defect in the inquiry, the suspect may notify this to the court.

The court shall consider the notification as promptly as possible. The court may, if there is reason, question the suspect or any other person or take any other measure considered necessary. Compensation for the attendance of the suspect shall be paid in accordance with regulations issued by the government. (SFS 1996:1624)

Section 20

Upon the conclusion of the preliminary investigation, a decision on whether to institute a prosecution shall be issued. (SFS 1957:38)

Section 21

During the preliminary investigation a record shall be kept of matters of importance to the investigation.

After the statement of the suspect or any other person is recorded, and before the conclusion of the examination, the statement shall be read out or another means provided to verify its accuracy, and the examined person shall be asked whether he has any objection to its content. Any objection not resulting in correction shall be recorded. The account may not be amended thereafter. If an account of a statement is not transcribed into the record until after the notes of the account have been checked, the original notes shall be included in the document file.

In minor cases, instead of a record, concise notes may be kept of the important matters arising at the preliminary investigation.

As soon as the decision to prosecute has been made, the suspect or his defence counsel, on request, shall receive a copy of the record or notes of the preliminary investigation. If public defence counsel has been appointed for the suspect, a copy shall be delivered or sent to him without special request. (SFS 1981:1294)

Section 22

If there is sufficient reason for prosecution, preliminary investigation pursuant to this chapter is not required for offences punishable by fine only or offences mentioned in Chapter 45, Section 2, paragraph 1 or 2.

A prosecutor may extend a prosecution that has been initiated without conducting a further preliminary investigation pursuant to this chapter. (SFS 1994:1412)

Section 23

If additional inquiry is found necessary after the institution of a prosecution, the provisions of this chapter shall apply to such additional investigation to the extent applicable.

Section 24

The government may make further regulations concerning the duties of leaders of investigations, notices pursuant to Section 18, first paragraph, fourth sentence, and records and notes of preliminary investigations. (SFS 1987:747)

Chapter 24

DETENTION AND ARREST

Section 1

Any person suspected on probable cause of an offence punishable by imprisonment for a term of one year or more may be placed in detention if, in view of the nature of the offence, the suspect's circumstances, or any other factor, there is a reasonable risk that the person will:
1. flee or otherwise evade legal proceedings or punishment;
2. impede the inquiry into the matter at issue by removing evidence or in another way; or
3. continue his criminal activity.

If a penalty less severe than imprisonment for two years is not prescribed for the offence, the suspect shall be detained unless it is clear that detention is unwarranted.

Detention may only occur if the reason for detention outweighs the intrusion or other detriment to the suspect or some other opposing interest.

If it can be assumed that the suspect will only be sentenced to a fine he must not be detained.
(SFS 1989:650)

Section 2

Any person suspected on probable cause of an offence may be detained regardless of the nature of the offence if:
1. his identity is unknown, and he either refuses to provide his name and address or he provides a name and address that can be assumed is false; or

2. he does not reside in the Realm and there is a reasonable risk that he will avoid legal proceedings or a penalty by fleeing the country. (SFS 1987:1211)

Section 3

Also a person who is only reasonably suspected of an offence, may, with the restriction stated in Section 19, be detained if:
1. the conditions for detention stated in Section 1, paragraphs 1, 3 and 4, or Section 2 are otherwise satisfied; and
2. it is of extraordinarily importance that he be detained pending further investigation of the offence. (SFS 1989:650)

Section 4

If it may be feared that detention will cause serious harm to a suspect by reason of his age, health status or similar factor, detention may only take place if adequate supervision of the suspect outside of detention cannot be arranged. The same rule applies to a woman who has given birth so recently that it may be feared that her detention will serious harm to the child. If the suspect refuses to submit to supervision, he must be detained.

There are special provisions otherwise restricting on the detention of persons under eighteen years of age.

Chapter 25 governs the imposition of travel restrictions and reporting requirements in lieu of detention.(SFS 1987:1211)

Section 5

Decisions to detain a person are issued by the court. The detention decision shall state the suspected offence and the grounds for detention.

Section 20 contains provisions concerning the rescission of detention decisions. (SFS 1987:1211)

Section 5 a

If the court decides to detain a person, order that a person shall remain in detention or consents to an extension of time to institute a prosecution, it shall simultaneously, at the request of the prosecutor consider whether the detained person’s contact with the outside world may be restricted. Permit to such restrictions may only be issued if there is a risk that the suspect will remove evidence or in other ways impede the inquiry of the matter at issue.

If it is necessary by reason of subsequently occurring circumstances, the prosecutor may issue a decision involving restrictions in the detained person’s contact with the outside world even though the court has not issued permission for restrictions. If the prosecutor issues such a decision he shall on the same day or not later than on the following day request the court to consider the matter under the first paragraph. When such a request is presented to the court, the court shall as soon as possible and not later than within one week hold a hearing concerning the issue. Court handling procedure is subject to the provisions applicable to detention hearings.

A permit for restriction lapses if the court doe not allow an extension of the permit in conjunction with the court ordering that some other person shall remain in detention or grants an extension of the time to institute a prosecution. (SFS 1998:601)

Section 6

If there are grounds for detaining a person, he may be placed under arrest while awaiting the court's determination of the detention issue.

Even in the absence of full cause for detention, a person reasonably suspected of an offence may be arrested if it is extraordinarily important that he be placed in custody pending further investigation.

Decisions concerning arrest are made by the prosecutor. The decision for arrest shall state the suspected offence and the grounds for arrest. (SFS 1987:1211)

Section 7

If there are grounds to arrest a person, a policeman may in the case of urgency apprehend the suspect without a decision for arrest.

If a person who has committed an offence for which imprisonment may be imposed is observed in the act of committing the offence or fleeing from it, he may be apprehended by anyone. Similarly, anyone may apprehend a person posted as wanted for an offence. The person apprehended shall be promptly turned over to the nearest police officer. (SFS 1987:1211)

Section 8

When an order for arrest of a person is issued in his absence, the person shall be questioned by a police officer or a prosecutor as soon as the order is executed. The prosecutor shall promptly be informed of the deprivation of liberty, if he is not already informed. After questioning, the prosecutor shall decide immediately whether the suspect shall remain arrested.

A police officer or a prosecutor shall question as soon as possible anyone apprehended pursuant to Section 7. The prosecutor shall promptly be informed of the deprivation of liberty, if he is not already informed. After questioning, the prosecutor shall decide immediately whether the suspect shall be arrested. If the suspect is not arrested, the apprehension order shall be rescinded immediately.

Before a prosecutor has been informed of the deprivation of liberty, the decision on apprehension be revoked by the police authority, if it is obvious that there is no longer reason to continue the deprivation of liberty. In immediate conjunction with the apprehension, a decision made under the same precondition may be revoked even by a police officer who made the decision.

If there are reasons to arrest a suspect and the suspect flees, the prosecutor may post the suspect as wanted. (SFS 1998:24)

Section 9

When a person is apprehended or arrested or when an order for arrest under Section 8, first paragraph is executed, he shall be informed of the offence for which he is suspected and the grounds for his arrest. Immediate relatives or other persons particularly close to him shall also be notified of the arrest as soon as it can be done without causing harm to the investigation. However, such notice may not be given against the wishes of the arrested person without extraordinary reason. (SFS 1998:24)

Section 10

When there are no longer reasons for an order for arrest, the prosecutor shall rescind the order immediately. (SFS 1987:1211)

Section 11

If the arrest order is not rescinded, the prosecutor shall, within the time limit prescribed in Section 12, submit to the court, orally or in writing, an application for an order to detain the person arrested.

In the application, the prosecutor shall state the suspected offence, the grounds for the detention application, and the time when the suspect was deprived of his liberty.

The prosecutor shall, if possible, immediately inform the arrested person and his defence counsel of the detention order application. (SFS 1987:1211)

Section 12

An application for a detention order shall be made without delay and not later than 12 o'clock on the third day after the arrest order.

If the prosecutor has issued the arrest order in the absence of the suspect, the time limits in the first paragraph shall be computed as of the day when the order was executed.

If the application for a detention order is not submitted within the prescribed time limits, the prosecutor shall rescind the arrest order immediately. (SFS 1995:1310)

Section 13

If an application for a detention order has been presented, the court shall hold a hearing on the issue of detention without delay.

The detention hearing may never be held later than four days after the suspect was apprehended or the arrest order was executed. (SFS 1995:1310)

Section 14

The person who requests the detention and, unless there are exceptional reasons, the arrested person shall attend the detention hearing.

The person who requests the detention shall state the grounds upon which the request is based. The same applies as regards a request for a permit for restrictions under Section 5a. The arrested person and his defence counsel shall be afforded an opportunity to be

heard. Beside what the documents from the preliminary investigation contain and the other statements of the parties an investigation into the offence may not be presented unless there is special reason for so doing. (SFS 1998:601)

Section 15

If possible, the detention hearing shall continue to completion without any recess.

The court shall not postpone the hearing unless there are exceptional circumstances for so doing. The postponement may never exceed four days unless it is requested by the suspect.

When a detention hearing is postponed, the arrest order remains in effect unless the court otherwise determines. (SFS 1987:1211)

Section 16

The court shall decide on the detention issue immediately upon the conclusion of the detention hearing.

If the court orders detention of a person not present before the court, Section 17, paragraphs 3 and 4, shall apply.

If the court does not order detention, the court shall immediately rescind the arrest order. (SFS 1987:1211)

Section 17

The prosecutor may ask the court to order detention of a person who has not been arrested. After the prosecution has been initiated, the court may rule on such detention at the request of the aggrieved person or on its own motion.

When an issue for detention has been raised according to the first paragraph, the court shall hold a detention hearing as soon as possible. To the extent applicable, Sections 14 to 16 shall apply to such hearings. If the suspect has been summoned to the hearing, or there is reason to assume that he has fled or is hiding, his failure to appear shall not prevent the court from holding the hearing. If the aggrieved person fails to appear at the hearing even though summoned to the hearing, the matter may nevertheless be determined.

If the court has decided on detention of a person who was not present before it, the court shall be notified as soon as the order has been executed or the impediment to attendance has lapsed.

When the court has been notified pursuant to the third paragraph, the court shall without delay hold a hearing on the detention matter. The detention hearing may never be held later than four days after the execution of the detention order or after the impediment to the suspect’s attendance has lapsed. (SFS 1995:1310)

Section 18

When the court decides on a detention, the court shall, unless the prosecution has already been initiated, prescribe a time within which the prosecution shall be initiated. The court may not fix a time later than unavoidably necessary.

If the time prescribed is inadequate, the court may extend the period the extension is requested before expiration of the time. If possible,

the suspect and his defence counsel shall be given an opportunity to be heard.

If a prosecution is not instituted within two weeks, the court shall hold a new hearing on the issue of detention at intervals of not more than two weeks, as long as the suspect is detained and until the prosecution is initiated. At these hearings, the court shall ensure that the inquiry is being pursued as speedily as possible. The court may extend the intervals if, in view of the inquiry or any other circumstance, it is evident that holding hearings within the time mentioned above would serve no purpose.

The court need not set a time for initiation of the prosecution when it orders detention pursuant to Section 3 or detention of somebody not present before the court. (SFS 1987:1211)

Section 19

If a person who is present before the court has been detained pursuant to Section 3, the prosecutor shall notify the court as soon as he concludes that there is probable cause to believe that the suspect has committed the offence. Without delay, the court shall hold a new hearing on the issue of detention. The hearing must always, whether notification has been given or not, be held within one week after the detention decision.

If at the hearing no probable cause is shown to believe that the suspect has committed the offence or that there otherwise are no longer grounds for detention, the court shall rescind the detention order immediately. (SFS 1995:1310)

Section 20

The court shall rescind a detention order immediately if:
1. within the time prescribed in Section 18, the prosecutor has neither initiated a prosecution nor requested an extension; or

2. there are no longer grounds for the order.

A prosecutor may rescind a detention order any time before the prosecution is initiated. The prosecutor shall immediately notify the court of the matter.

Section 21

If the suspect is in detention at the time of sentencing, the court shall determine in accordance with the provisions in this chapter whether he shall remain in detention pending the judgment entering into final force. If the suspect is not detained, the court may order his detention. As regards permits to restrictions, the provisions of Section 5 a apply.

When applying the first paragraph, the provisions in this chapter on detention, in those cases in which there is a risk that the suspect will evade punishment, shall apply also to situations in which there is a risk that the suspect will evade deportation. If the court has decided to deport it may make a detention order although for the offence a penalty of imprisonment for one year or more is not prescribed. However, the detention order shall not apply during the period that the sentenced person serves a sanction of deprivation of liberty to which he was sentenced in the case. (SFS 1998:601)

Section 22

A person who is apprehended, arrested, or detained shall be taken into custody. However, a person who is apprehended need not be kept in custody if it is not necessary having regard to the purpose of the apprehension. A person being detained shall be taken to a remand centre without delay.

If, for the inquiry of the offence for which a detention order has been issued or another offence of which the detained person is suspected, it is of the utmost importance that the detained person be

held in custody at a place other than the one mentioned in the first paragraph, the court, at the request of the prosecutor, may order that the detained person shall not be taken to a remand centre until further notice. If the detained person is already at a remand centre the court or the prosecutor may also direct that he be transferred to another place for questioning or other purposes.

Separate provisions apply to the custody of detained persons who are undergoing or have undergone forensic examination. (SFS 1998:24)

Section 23

No person suspected of an offence may be held in custody, irrespective of consent, except as prescribed in this chapter or otherwise provided by statute.

Chapter 23 contains provisions on the duty of a person suspected of an offence to remain for questioning. (SFS 1987:1211)

Section 24

There are separate provisions concerning the treatment of arrested or detained persons and also compensation from public funds for those wrongfully arrested or detained. The same also applies to the consideration by the court of the investigation leader’s or prosecutor’s decision on restrictions of the detained persons contact with the surrounding world. (SFS 1998:601)

Chapter 25

TRAVEL PROHIBITION AND OBLIGATION TO REPORT

Section 1

If someone is reasonably suspected of an offence, for which imprisonment may be imposed, and there is reason having regard to the nature of the offence, the circumstances of the suspect or some other factor, a risk that he will flee or in some other way evade legal proceedings or penalty, but there is otherwise no reason to detain or arrest him, he may instead be ordered, if it is sufficient, to not leave the assigned place of residence (travel prohibition) or an obligation imposed that he must at certain times report to the police authority (obligation to report). A travel prohibition or an obligation to report may be decided, irrespective of the nature of the offence, if there is a risk that the suspect may evade legal proceedings or penalty by leaving the country.

An order of travel prohibition or obligation to report may be issued in situations not mentioned in the first paragraph if there are grounds for a person's detention or arrest, but it may be assumed that the objective of arrest or detention can be accomplished adequately by travel prohibition or an obligation to report.

Travel prohibition or obligation to report may be ordered only if the reasons for the measure can be assumed to outweigh the consequent intrusion or other detriment to the suspect or to any other adverse interest.
(SFS 1989:650)

Section 2

In conjunction with travel prohibition or obligation to report, the suspect may be required to be at his place of residence or work at specified times. Other conditions needed for his supervision may

also be imposed. Furthermore, both travel prohibition and obligation to report may be imposed simultaneously.

The provisions concerning travel prohibition shall apply as well to obligation to report. (SFS 1981:1294)

Section 3

The prosecutor or the court issue travel prohibition orders.

The court may consider an issue on travel prohibition at the prosecutor's request or in conjunction with the court's determination on the suspect's detention or remand in custody. After prosecution is instituted, the court may consider travel prohibition at the request of the aggrieved person or on its own motion.

If an issue on travel prohibition is raised before the court, the court shall hold a hearing thereon as soon as possible. To the extent relevant, the provisions of Chapter 24, Section 17 shall apply to the hearing. If delay entails risks, the court may immediately issue an order of travel prohibition to remain effective until it orders otherwise. (SFS 1981:1295)

Section 4

A travel prohibition order shall include the suspected offence, state the place in which the suspect shall sojourn, and state any other conditions that he is required to observe. The order shall contain a reminder of the sanction for violation of the prohibition, or for failure to comply with any condition connected to the prohibition.

The order shall be served upon the suspect.

Section 5

The suspect may request court consideration of any travel prohibition issued by the prosecutor. On receipt of the request, as soon as possible and, if extraordinary impediment does not exist, no later than on the fourth day after receipt of the request, the court shall hold a hearing of the kind referred to in Section 3. If the main hearing is scheduled to occur within one week of the filing of the request, the hearing may be postponed until the main hearing, unless the court finds that a special hearing should be held. (SFS 1981:1294)

Section 6

When the court issues a travel prohibition order or confirms such an order it shall if prosecution has not yet been instituted, prescribe a time within which the prosecution shall be instituted. The period shall be no longer than the court finds unavoidably necessary. In other situations, the prosecution shall be instituted within one month of the issuance of the order.

The court may extend the time within which prosecution shall be instituted if the court considers that the period stated in the first paragraph is insufficient and the extension was requested before the expiration of the original period.

Section 7

The travel prohibition shall be rescinded immediately if within the time limit prescribed under Section 6 prosecution has not been instituted or an application for the prolongation of the time has not been filed with the court or if there are not other reasons for travel prohibition.

Rescission of travel prohibition shall be ordered by the prosecutor or, if the travel prohibition has been issued or confirmed by the

court, the court shall order its rescission. Otherwise, termination of travel prohibition shall be ordered by the prosecutor. The court may empower the prosecutor to rule on temporary exceptions from the travel prohibition or from regulations imposed in conjunction with the prohibition.

The provisions on detention stated in Chapter 24, Section 21 shall apply correspondingly to travel prohibition. (SFS 1981:1294)

Section 8

When an issue regarding travel prohibition is raised in a case on appeal to a superior court, the superior court may determine the issue without a hearing. If a hearing is considered necessary, the hearing shall be held as soon as possible. The provisions of Chapter 24, Section 17, shall apply to such a hearing to the extent applicable.

Section 9

Unless it is evident that there is no reason therefor, if the suspect violates a travel prohibition or fails to comply with an attached condition, he shall be arrested or detained immediately.

Chapter 26

PROVISIONAL ATTACHMENT*

Section 1

If a person is reasonably suspected of an offence and there is reasonable cause to anticipate that, by fleeing, removing property or otherwise, he will evade the obligation which can be assumed will be placed upon him because of the offence to pay fines, the value of forfeited property, corporate fines, or other compensation to the community, or damages or any other compensation to an aggrieved person, the court may order provisional attachment of so much of the suspect's property that the claim may be assumed to be secured on execution.

Provisional attachment may be ordered only if the reasons for the measure outweigh the consequent intrusion or other detriment to the suspect or to any other adverse interest. (SFS 1989:650)

Section 2

The court issues orders for provisional attachment.

Issues on provisional attachment may be entertained at the request of the investigation leader, the prosecutor, or the aggrieved person. Once the prosecution has been initiated, the court may also consider provisional attachment on its own motion.

The investigation leader or the prosecutor may request provisional attachment to secure an aggrieved person's claim for damages or any other compensation only if the claim has been reported to him by the aggrieved person. The court may only order provisional attachment upon request.

* Title amended by SFS 1981:828.

When an issue on provisional attachment is raised, the court shall hold a hearing as soon as possible. The provisions of Chapter 24, Section 17, apply to such hearings to the extent applicable. If delay entails risks, the court may immediately direct provisional attachment to remain effective until the court orders otherwise. (SFS 1981:828)

Section 3

The investigation leader or the prosecutor may take moveable property into custody while awaiting the court's order of provisional attachment.

If delay entails risks, a police officer may take such action; however, the police officer must promptly report the measure to the investigation leader or the prosecutor who must immediately consider and determine if the property shall remain in custody. (SFS 1981:828)

Section 4

As soon as possible, and no later than five days after the investigation leader or the prosecutor has taken moveable property into custody, or ordered that such property remain in custody, he shall apply to the court for provisional attachment. If timely application is not made, the property shall be returned immediately.

As soon as possible and, if no extraordinary impediment exists, no later than four days after receipt of the application, the court shall hold a hearing pursuant to Section 2. If the main hearing is scheduled to occur within one week of the application's filing, the hearing may be postponed until the main hearing, unless the court finds that a special hearing should be held.

If provisional attachment is ordered, the property shall remain in the custody of the authority until the order is enforced, unless the court orders otherwise. (1981:828)

Section 5

When the court orders provisional attachment before the prosecution is instituted, the court shall prescribe a time within which the prosecution shall be instituted. The period set shall be no longer than the court finds unavoidably necessary.

The court may extend the time within which prosecution shall be instituted if the court considers that the period stated is insufficient and the extension was requested before the expiration of the original period. (1981:828)

Section 6

The court shall rescind provisional attachment immediately if the time limit prescribed in Section five has not been met, or if adequate security has been furnished, or if for other reasons provisional attachment is no longer justified.

When the case is determined, the court shall determine if provisional attachment shall remain in force. The court may, in conjunction with a judgment, also make an order concerning the measures referred to here. (SFS 1981:828)

Section 7

The provisions of Chapter 25, Section 8, concerning travel prohibition shall also apply to provisional attachment. (SFS 1981:828)

Section 8

The Code on Enforcement contains rules on enforcement of provisional attachment. When necessary, the court may issue further instructions regarding the enforcement. (SFS 1981:828)

Chapter 27

SEIZURE, SECRET WIRE-TAPPING, ETC.*

Section 1

Objects reasonably presumed important to a criminal investigation or taken from a person through a criminal act or subject to criminal forfeiture may be seized.

The provisions in this chapter concerning objects shall also apply to written documents to the extent nothing else is prescribed.

The coercive measures described in this chapter may be imposed only if the reasons for the measure outweigh the consequent intrusion or other detriment to the suspect or to another adverse interest. (SFS 1989:650)

Section 2

If it can be assumed that a document contains information that an official or other person may not disclose under testimony under Chapter 36, Section 5, the document may not be seized from the possession of that person or the person who is owed the duty of confidentiality. Nor may from the person of the suspect or his relative, as defined in Chapter 36, Section 3, written communications between the suspect and his relative or between such relative be seized, except if the issue concerns an offence in respect of which a less severe penalty than imprisonment for two years is not prescribed. (SFS 1964:166).

Section 3

A letter, telegram, or other dispatch in the possession of a postal or telecommunications undertaking may be seized only if the offence is

* Title amended by SFS 1989:650.

subject to a penalty of imprisonment for one year or more and the dispatch would have been possible to seize from the addressee. (SFS 1993:602)

Section 4

Objects revealed in a lawful apprehension, arrest, or detention, or during a search of premises or of a person or a body examination, may be seized.

Objects otherwise found may be seized by order of the investigation leader or the prosecutor. If delay entails risk, a police officer may seize such objects without an order concerning such measures, except dispatches mentioned in Section 3.

A person, other than the investigation leader or the prosecutor, who executes a seizure shall promptly notify the investigation leader or the prosecutor, if the order was not made by either of them, who must then immediately determine whether the seizure shall remain in effect. (SFS 1993:1408)

Section 5

The court may order seizure of an object presented to the court or otherwise for seizure.

The issue of seizure may be entertained by the court upon request of the investigation leader or the prosecutor. Once the prosecution has been initiated, the court may also entertain such issue upon the request of the aggrieved person or on its own motion.

When an issue on seizure is raised before the court, a hearing concerning the matter shall take place as promptly as possible. The provisions in Chapter 24, Section 17, to the extent applicable, shall apply to such proceedings. If delay entails risk, the court may

immediately issue a seizure order to remain effective until otherwise ordered.

Section 6

A person subjected to a seizure executed without a court order may request a court determination thereof. The court shall hold a hearing, as provided in Section 5, as promptly as possible and, in the absence of extraordinary impediment, no later than four days after receipt of the request. If the main hearing is scheduled to occur within one week of the receipt of the request, however, the hearing may be postponed until the main hearing unless the court considers that a special hearing should be held.

Section 7

If the prosecution has not yet been instituted at the time the court issues a seizure order or confirms a seizure already executed, the court shall set a time period for institution of the prosecution. The period shall not be set longer than necessary.

If the time mentioned in the first paragraph is insufficient the court may extend the time within prosecution must be instituted if an application to that effect is made before the expiration of the period. (SFS 1994:1412)

Section 8

The seizure shall be rescinded immediately if no prosecution has been instituted or no application for extension of time has been filed within the time stated in Section 7 of this chapter or if there is no longer any reason for the seizure.

A seizure order is rescinded by court order or, if the court has neither issued nor confirmed the seizure order, by the investigation leader or the prosecutor.

When the case is determined, the court shall determine whether the seizure shall remain in force. The court may, in conjunction with a judgment, also make an order concerning seizure.

Section 9

If there is reason to believe that a dispatch subject to seizure will be received at a transport undertaking, the court may order that the dispatch shall be held upon receipt, pending a determination of the issue of its seizure. A court may entertain such an issue only at the request of the investigation leader or the prosecutor.

An order shall state the period it will be effective, which may not exceed one month from the time the order is served upon the transport undertaking. The order shall forbid disclosure of the measure to the sender, the addressee, or any other person, without permission of the investigation leader or the prosecutor.

When a dispatch is received and held pursuant to court order, the transport undertaking shall promptly notify the requesting authority. That authority must immediately determine whether the dispatch shall be seized. (SFS 1993:602)

Section 10

The person executing the seizure shall take seized objects into custody. An object may be left with the possessor, however, if it can be done without risk or is otherwise appropriate. An object left with the possessor shall be sealed or marked as seized unless such measure appears unnecessary.

The person from whom an object has been seized may not transfer or otherwise dispose of the seized object contrary to the purpose of the seizure. The possessor may use an object not taken into custody or sealed unless otherwise ordered.

Any seized object shall be carefully preserved and strict supervision shall be maintained to ensure that the object is not exchanged, altered, or otherwise misused. (SFS 1981:828)

Section 11

When the person from whom seizure is made is not present at the seizure, he shall promptly be notified of the seizure and of the disposal of the seized property. When a dispatch in the possession of a transport undertaking is seized, the addressee, and also the sender if known, shall be notified as soon as notice can be given without impairing the inquiry. (SFS 1993:602)

Section 12

Only the court, the investigation leader, or the prosecutor may examine more closely a seized postal or telegraphic communication, account book, or another private document, or may open a letter or other closed documents: however, on the direction of the any of any of the named authorities a, the document may be inspected by an expert or another person in aid of the criminal inquiry. The person who executes the seizure shall seal the seized document, in the absence of authority to examine the document more closely.

A document referred to here shall be examined as soon as possible. If the addressee can be informed, in whole or in part, of the contents of a postal or telegraphic communication without impairing the investigation, a copy or extract of the document shall promptly be delivered to him.

Section 13

A record shall be kept of the seizure, stating its purpose and what the seizure revealed and describing sufficiently each seized object.

Upon request, the person from whom property was seized is entitled to a certificate of the seizure, stating the offence under investigation.

Section 14

The provision of Chapter 25, Section 8, concerning prohibition, shall apply correspondingly to seizure orders.

Section 14a

Objects reasonably presumed subject to forfeiture under the Penal Code, Chapter 36, Section 3, may be seized. The provisions in this chapter governing seizures shall correspondingly apply. (SFS 1975:403).

Section 15

To secure criminal inquiry, a building or room may be closed off, admission to a specific area may be prohibited, removal of a specific object may be prohibited, or any other suitable measure may be taken.

The provisions in this chapter governing seizures shall apply to the measures mentioned in this section, to the extent applicable.

Section 16

Repealed by (SFS 1989:650).

Section 17

The provisions governing seizures contained in any law or regulation shall supersede any inconsistent provision contained in this chapter.

Section 18

Secret wiretapping is the covert monitoring or recording by technical means of telecommunications, conveyed to or from a telephone number, a code or other telecommunications address, for reproduction of the content of the message.

Secret wiretapping may be used in the preliminary investigation of:
1. offences in respect of which a less severe penalty than imprisonment for two years is not prescribed for the offence; or
2. attempt, preparation, or conspiracy to commit such an offence if such act is subject to punishment.
(SFS 1995:1230)
Section 19

Secret tele-surveillance means the covert reporting of telecommunications conveyed to or from a certain telecommunications dispatched or ordered to or from a certain telecommunications address or that such a message is prevented from reaching its destination.

Secret tele-surveillance may be used in the preliminary investigation of:
1. offences in respect of which a less severe sentence than six months imprisonment is not prescribed;
2. offences in violation of the Penal Law on Narcotics (1968:64), Section 1, or narcotics offences in violation of the Law on Penalties for the Smuggling of Goods (1960:418), Section 1; or
3. attempt, preparation, or conspiracy to commit an offence in respect of which a less severe sentence than imprisonment for at least two years is prescribed. (SFS 1995:1230)

Section 20

Secret wire-tapping and secret tele-surveillance may only be conducted if someone is reasonably suspected of an offence and the measure is of exceptional importance to the inquiry. The measure may only relate to a telecommunications address held by the suspect or which may be assumed will be used by him.

Wire-tapping and surveillance may not relate to telecommunications messages which are conveyed within a telecommunications network which, having regard to its limited size and the circumstances generally, may be assumed to be of minor importance from the viewpoint of public communications. (SFS 1995:1230)

Section 21

Issues concerning secret wire-tapping and secret tele-surveillance are determined by the court upon the request of the prosecutor.

A decision permitting secret wire-tapping or secret tele-surveillance shall specify the permitted duration of the surveillance and the telecommunications address which it relates. The duration of surveillance may not be longer than necessary and may not exceed one month from the date of the decision.

In permits for wire-tapping or surveillance, it shall be specifically stated if the measure may be executed outside the tele-communications network available to the public.(SFS 1995:1230)

Section 22

Telephone conversations or other telecommunications between the suspect and his defence counsel may not subject to secret wire-tapping. If during the tapping it appears that it is such a conversation or communication, the surveillance shall be discontinued.

Recordings or notes, to the extent that they are subject to the prohibition, shall immediately be destroyed. (SFS 1989:650)

Section 23

The prosecutor or the court shall immediately rescind an order authorizing secret wire-tapping or secret tele-surveillance once cause no longer exists for the order. (SFS 1989:650)

Section 24

Recordings or notes from secret wire-tapping shall be examined as promptly as possible. The provisions in Section 12, paragraph 1 of this chapter shall apply to such an examination.

Portions of the recordings and notes important for the investigation shall be kept until the preliminary investigation is discontinued or concluded or, if prosecution is instituted, until the case is finally adjudicated. They shall thereafter be destroyed. (SFS 1989:650)

Section 25

If the court has given permission for secret wire-tapping or secret tele-surveillance, the technical equipment needed for the tapping or surveillance may be used.

The Telecommunications Act (1993:597) contains provisions concerning secret wire-tapping and secret tele-surveillance applicable to persons holding a permit to conduct tele-communications operations. (SFS 1996:415)

Chapter 28

SEARCH OF PREMISES, BODY SEARCH AND BODY EXAMINATION

Section 1

If there is reason to believe that an offence punishable by imprisonment has been committed, houses, rooms, or closed storage spaces may be searched to look for objects subject to seizure or to detect other information of potential importance to the inquiry of the offence.

The premises of a person, other than one reasonably suspected of having committed the offence, may not be searched unless the offence was committed there, the suspect was apprehended there, or extraordinary reason indicates that the search will reveal an object subject to seizure or other information concerning the offence.

A suspect's consent is not adequate to justify a search of his premises unless the suspect personally initiated the request for the search. (SFS 1964:166)

Section 2

In order to find a person who is to be apprehended, arrested, detained, taken into custody for questioning or appearance in court or subjected to a body search or a body search conducted a search may be conducted at his premises, or at another person's premises if there is extraordinary reason to assume that the person wanted is present there. The same applies to a defendant wanted for service of a summons application or summons to appear at the hearing if efforts to serve have failed or are considered pointless. (1995:637)

Section 2a

Means of transport at a certain place may be searched to find a person subject to apprehension, arrest, or detention for an offence in respect of which a less severe penalty than four years imprisonment is not prescribed, or for the attempt of such an offence if there is special reason to believe that the suspect will travel through that place. (SFS 1991:666)

Section 3

Public places, locations frequented by vagrants or criminals, or places where objects of the kind sought are frequently purchased or pawned may be searched for the purposes stated in Sections 1 and 2, even in circumstances other than those specified in Sections 1 and 2.

Section 3a

A search of premises may be ordered only if the reasons for the search outweigh the consequent intrusion or other detriment to the suspect or to another adverse interest. (SFS 1989:650)

Section 4

Orders authorizing a search of premises are issued by the investigation leader, the prosecutor, or the court, except as provided in paragraph 3. Orders authorizing a search of premises for the purpose of service shall always be issued by the court. If in other cases the search of premises is likely to be extensive or cause extraordinary inconvenience to the person whose premises are to be searched, the measure should not be taken without a court order unless delay entails risk.

The court may entertain an issue of search of premises upon the request of the investigation leader or the prosecutor. After

prosecution has been initiated, the court may also take up such an issue upon request of the aggrieved person or on its own motion. An issue for search of premises for the purpose of service is entertained by the court on its own motion or upon the request of the police authority or the prosecutor.

The police authority or a police officer, pursuant to provisions of the Police Act (1984:387), may authorize a search of premises to find a person whose detention has been authorized by a decision as provided in Chapter 24, Section 17, paragraph 3, or who is to be taken into custody for appearance in court. (SFS 1995:637)

Section 5

If delay entails risk, a police officer may search premises without having obtained a search order as prescribed in Section 4. However, this does not apply to a search for the purpose of service. (SFS 1995:637)

Section 6

Inconvenience or damage incident to searches of premises should be avoided to the greatest extent practicable.

A room or a storage space may be opened by force if necessary. In that event, it should be closed by appropriate means after completion of the search.

In the absence of special reason, premises may not be searched between nine o'clock in the evening and six o'clock in the morning.

Section 7

Whenever possible, a reliable witness commissioned by the officer conducting the search shall be present at a search of premises. The

officer conducting the search may be assisted by an expert or another person.

The person whose premises are to be searched or, if he is absent, his household employees, shall be given an opportunity to observe the search and to have a witness present unless the search would thereby be delayed. When neither the person whose premises were searched nor any of his employees nor a witness called by them was present at the search, the person whose premises were searched must be notified of the search as soon as this is possible without detriment to the investigation.

An aggrieved person or his attorney may be present during the search to furnish necessary information; however, the aggrieved person or attorney should learn no more than necessary of the facts and circumstances revealed at the search.

Section 8

A postal or telegraphic communication, an account book, or another private document found during a search of premises may be more closely examined, and a letter or other closed document may be opened only as prescribed in Chapter 27, Section 12, paragraph 1.

Section 9

A record shall be kept of a premises search, stating the purpose of the search and describing what the search revealed.

Upon request, a person whose premises have been searched is entitled to receive a certificate of the search, stating the offence under investigation.

Section 10

The investigation leader, the prosecutor, or a police officer may search a non-public place other than those mentioned in Section 1 for the purposes stated in Section 1 or 2 of this chapter.

Section 11

If there is reason to believe that an offence punishable by imprisonment has been committed a person reasonably suspected of the offence may be subjected to a body search to discover an object subject to seizure or other information of potential importance to the investigation of the offence.

A person other than one reasonably suspected of the offence may be subjected to a body searched if there is extraordinary reason to assume that an object subject to seizure thereby be discovered or it is otherwise of importance for investigating the offence.

A body search means the examination of clothes and other things a person has on him and of bags, packages and other objects which a person has with him. (SFS 1993:1408)

Section 12

A person reasonably suspected of an offence for which imprisonment may be imposed may be subjected to a body examination for the purposes stated in Section 11.

Body examination means the examination exterior or interior of the human body and also the taking of samples from the human body and examination of such samples. A body examination may not be conducted in such a way as the examinee is at risk as regards future health or injury.

The person who shall be subject of body examination may be held for the purpose for up to six hours or, if there are extraordinary reasons, a further six hours. (SFS 1993:1408)

Section 13

The applicable provisions in Sections 3a, 4, 8, and 9, governing search of premises, shall apply to body searches and body examinations. A body search or body examination may be decided by a police officer if delay entails risk.

A more extensive search or examination shall be performed indoors and in private. If it is performed by anyone other than a physician, a reliable witness commissioned by the officer conducting it shall be present whenever possible. Only a physician or an accredited nurse may draw a blood sample. Only a physician may perform a more extensive examination.

Only a female, a physician, or an accredited nurse may perform or witness a body search or a body examination performed on a female. However, a body search only involving the examination of something a woman has with her and body examination which only involves taking blood samples alcohol breath test may be executed and witnessed by a man. (SFS 1995:491)

Section 14

A person arrested or detained may be photographed, and fingerprinted; he may also be subjected to any similar measure. Another person may be subject to such measures if necessary to obtain information about an offence punishable by imprisonment.

The government issue further regulations concerning measures mentioned in this section. (SFS 1974:573)

Section 15

The provisions governing searches of premises, body searches, or body examinations contained in any law or regulation shall supersede any inconsistent provision contained in this chapter.

Chapter 29

VOTING

Section 1

If opinions on a judgment or order diverge during deliberation, voting shall take place.

In voting, the youngest in the court shall express his views firs. Thereafter, the members shall express their views in accordance with their length of service. If a case has been prepared by a particular member, he shall state his opinion first. If lay judges sit on the court, they state their opinions last.
Each member shall state the grounds upon which he rests his opinion. (SFS 1983:370)

Section 2

The court shall vote separately upon procedural issues.

The court shall vote in one sequence upon issues of guilt. However, if it may affect the outcome of the case the court shall vote separately upon:
1. whether the defendant committed the alleged act and, in that case, how the act should be judged,
2. issues on measures other than sanctions that bear directly on which sanction to impose,
3. the issue of sanction, except for the amount of a dayfine, direction, warning, probation, extension of a probation period or the enforcement of a sanction,
4. remaining issues concerning guilt.

If a member of the court believes the defendant should be surrendered for special care of a kind other than that referred to in Chapter 31, Section 1a of the Penal Code, the judges shall vote

separately on that issue before voting pursuant to the second paragraph, clause 3. (SFS 1998:605)

Section 3

The vote of the majority shall prevail. If one obtains half of the votes, and that opinion is the most lenient or the least intrusive for the defendant, it shall prevail. If no opinion can be considered more lenient or less intrusive the opinion of the presiding member (chairperson) shall prevail if it has obtained half of the votes.

During the voting, if there are more than two opinions, none of which shall prevail, the votes for the opinion most unfavourable to the defendant shall be counted with the votes for the opinion next most unfavourable. If necessary, the counting shall continue in the same manner until a determination with the required support is reached. When no opinion can be considered more adverse to the defendant than any other, the opinion obtaining the most votes shall prevail. If several opinions tie for the same number of votes, the opinion supported by the highest ranking member among those voting for one of these opinions shall prevail.

No opinion shall be considered more lenient or less intrusive than another when voting pursuant to the third paragraph of Section 2. (SFS 1988:1369)

Section 4

A member of the court who has been outvoted is obliged to participate in subsequent voting. However, a judge who voted for the acquittal of the defendant shall in a subsequent voting be considered to have supported the opinion most lenient or least intrusive to the defendant. (SFS 1988:1369)

Section 5

Disagreements about how voting shall proceed or which opinion shall prevail shall be resolved by voting.

Section 6

When voting on procedural issues and that do not concern criminal liability, or that concern private claims, and issues under Section 5, or on litigation costs, the provisions in Chapter 16 shall apply. However, when voting on detention or measures stated in Chapters 25 through 28, the provisions in this chapter concerning voting on criminal liability shall apply. When a private claim is joined with a prosecution, the court's finding of criminal liability is binding for the adjudication of the private claim. (SFS 1983:370)

Section 7

Repealed by SFS 1983:370.

Chapter 30

JUDGMENTS AND DECISIONS

Section 1

A court's determination on the merits of the matter at issue an action is made in a judgment. The determination of other matters is made by a decision. A decision, other than a judgment, that disassociates a court from a matter at issue is a final decision as is a superior court’s decision on such matter if it has been appealed against separately.

Section 2

If a main hearing has been held, the judgment shall be based upon material presented at that hearing. A judge may not participate in the judgment unless present throughout the main hearing. If a new main hearing has been held, the judgment shall be based upon material presented at that hearing. In cases subject to Chapter 46, Section 17, second sentence, the judgment may also be based upon material presented after the main hearing.

When a case is adjudicated without a main hearing, the judgment shall be based on the contents of the documents and what otherwise emerged in the case. (SFS 1987:747)

Section 3

The judgment may relate only to an act for which a prosecution was properly instituted or to a matter referred by statute to the court's criminal jurisdiction. The court is not bound by a a regarding the legal characterization of the offence or applicable provisions of law.

Section 4

When several prosecutions are joined in a trail, the court may enter a judgment upon any of them separately, although adjudication of the remaining charges is still in progress. If a single defendant is the subject of multiple prosecutions, however, such a separate judgment shall not be entered unless there is extraordinary reason. (SFS 1956:587)

Section 5

A judgment shall be in writing and shall specify in separate Sections:
1. the court, the time and place of pronouncement of the judgment;
2. the parties, their attorneys or counsel, and the defence counsel for the defendant;
3. the final judgment;
4. the parties' demands and the circumstances upon which they are founded; and
5. reasoning in support of the judgment, including a statement of what has been proved in the case.

A judgment rendered by a superior court shall, to the extent necessary, describe the judgment of the lower court.

If a party is entitled to appeal, the judgment should inform him of the steps he must in that case take.
(SFS 1994:1034)

Section 6

If the defendant has admitted the act and a penalty other than imprisonment, or closed juvenile care or of imprisonment for a term of no more than six months is imposed, the judgment may be rendered in simplified form. A judgment by an appellate court

confirming the judgment of a lower court may also be rendered in simplified form.

If a private claim stemming from the offence is included in the case, the first paragraph applies only if the defendant concedes the private claim or if the court finds the matter at issue manifestly clear. (SFS 1998:605)

Section 7

Before rendering judgment, the court shall meet to deliberate. When the bench includes lay judges, the chairperson or another legally qualified judge, if he presided at the preparatory stage of the case, shall explain to the bench the substance of the matter at issue and the applicable legal rules.

When a main hearing has been held, deliberation shall take place either on the same day or the next working weekday and if possible, the judgment shall be made and delivered in open court. When additional time is unavoidably required for the determination or writing of the judgment, the court may decide to defer it; however, unless there is an extraordinary impediment, the judgment shall be written and delivered within one week of the conclusion of the hearing if the defendant is detained, or otherwise, within two weeks of the conclusion of the hearing. If the judgment is not delivered at the main hearing, it shall be delivered at another session of the court or pronounced by being made available at the court's registry; notice of the anticipated time and manner of the pronouncement of judgment shall be given at the main hearing.

If a case is adjudicated without a main hearing, the deliberation shall take place and the judgment determined, written, and pronounced as soon as possible. Pronouncement of the judgment shall be effected by being made available at the court's registry.

Delivery of a judgment may be effected by reporting the final judgment and the reasoning in support of the judgment and by giving notice of the means of appeal.

Any opinion diverging from the judgment shall be disclosed to the parties at the same time and manner as the judgment.

A written notice of the content of the judgment shall be given the parties as promptly as possible. (SFS 1987:1097)

Section 8

Every judgment shall be separately drawn up and signed by the legally qualified judges participating in the adjudication. (SFS 1966:247)

Section 9

Once the time for ordinary means of appeal has expired, the issue of the defendant's criminal liability for the act which was determined by the judgment may not be taken up again for adjudication.

Modification and concurrence of criminal penalties, extraordinary remedies, and the transfer of criminal proceedings to a foreign country shall be governed by the specific provisions thereon. (SFS 1976:21)

Section 10

The provisions of Sections 2 and 7 concerning judgments shall apply to final decisions. Where appropriate having regard to the nature of the issue and unless otherwise prescribed, the provisions of Sections 5 and 8 shall also apply to such decisions. When a final decision is rendered in conjunction with the judgment, it shall be included in the judgment.

If a party may appeal from a final decision or apply for reinstatement, the decision shall state the steps he must take to do so. (SFS 1994:1034)

Section 11

A decision other than a final decision shall state, to the extent necessary, the grounds on which it is based.

If a person who desires to appeal from a decision rendered during the proceedings must give formal notice of intention to appeal this shall be stated in the decision. If an appeal against such a decision may be made separately this must also be stated in the decision. The court shall on request provide anyone desiring to appeal with further information concerning what other steps he should take.

Any decision other than a final decision, which is rendered in conjunction with a judgment or final decision, shall be included in the judgment or final decision. If an appeal from the decision must be brought separately, the court shall provide instructions on the steps necessary on the part of the person desiring to appeal. (SFS 1994:1034)

Section 12

Decisions rendered during the proceedings which may not be separately appealed shall be effective immediately. The same applies to decisions by which the court:
1. dismisses an attorney, counsel, or defence counsel;
2. specifies the compensation or advance out of public funds to an aggrieved person, or the compensation or advance to counsel, defence counsel, witness, expert, or any person other than the parties;
3. decides an issue of detention or a measure stated in Chapters 25 through 28;

4. appoints as defence counsel a person other than the individual proposed by the party; or
5. makes a ruling other than those governed by items 2 or 4 on an issue concerning legal aid according to the Legal Aid Act (1996:1619) except orders to repay to the state the costs of legal aid.

The court may, if there is reason for so doing, direct that an order to a party or third person to produce documentary evidence or to make accessible an object for view or inspection be effective even though the decision has not gained final force.

When reason exists, the court shall prescribe that security be furnished for damages for which the party may be liable if the decision is amended.

Any special direction that a judgment or order, although not yet final, may be executed immediately shall govern. (SFS 1996:1624)

Section 13

If the court considers that a judgment or a decision contains a manifest inaccuracy attributable to a clerical mistake, a miscalculation, or a similar oversight, by the court or any other, the court may direct that the judgment or decision is rectified.

If the court has neglected to issue a decision that should have been rendered in conjunction with a judgment or final decision, the court may supplement its determination within two weeks of the date of the pronouncement of the determination.

If a convicted defendant has misstated his name or civil registration number and the misstatement was not revealed during the trial, the court may, upon the request of the prosecutor, direct that the judgment or order be rectified.

Before deciding on rectification or supplement the court shall afford the parties an opportunity to be heard unless that is manifestly unnecessary. The decision shall, if possible, be endorsed on all copies of the determination that has been rectified. (SFS 1990:443)

Section 14

Repealed by SFS 1976:567.

Chapter 31

LITIGATION COSTS

Section 1

If the defendant is convicted in a case instituted by the prosecutor, the defendant shall reimburse the state for public funds spent pursuant to the court decision on remuneration for his defence counsel. He shall also pay to the state the expenses of bringing him to court and for such expenses for taking blood samples and blood investigations relating to the defendant and which have been taken to investigate the offence.

However, the defendant shall not be liable for costs not reasonably necessary to the inquiry or for costs occasioned by the carelessness or oversight of a person other than the defendant, his attorney, or a defence counsel chosen by him.

Except for situations described in Section 4, paragraph 1, the defendant shall not be required to pay more of the costs for the defence counsel than what he would have had to pay as the legal aid charge if legal aid had been granted under the Legal Aid Act (1996:1619). The provisions of that Act concerning the costs of legal aid counsel apply instead to the costs of a public defender.

The sum that the defendant must pay may be adjusted or waived, if appropriate in light of the defendant's criminality or his personal and financial circumstances.

If the sum the defendant would be called upon to pay does not exceed a minimum amount prescribed by the Government, no obligation to pay shall be imposed. (SFS 1996:1624)

Section 2

If the defendant is acquitted in a case instituted by the prosecutor or if a prosecution instituted by the prosecutor is dismissed, the court may award the defendant compensation out of public funds for his costs for defence counsel, including consultation fees pursuant to the Legal Aid Act 1996:1619), for obtaining evidence during the preliminary investigation or the proceedings provided that the costs were reasonably necessary to protect his rights.

The defendant may also receive compensation for the costs he incurred by attending court. Such compensation shall be paid in accordance with rules issued by the Government.

If the defendant is found guilty, he may receive compensation for any costs referred to in the first or second paragraph of this section which are attributable to the carelessness or oversight of the prosecutor. (SFS 1996:1624)

Section 3

If an aggrieved person, by accusation or otherwise, instigates a prosecution without reason, he may be required to compensate the state, to the extent found reasonable, for the costs described in Section 1, and compensation awarded to the defendant in accordance with Section 2. (SFS 1990:443)

Section 4

In a case instituted by the prosecutor, a defendant who fails to appear before the court, fails to comply with a court order, presents allegations or defences that he knows or should know to be without merit, or who is negligent in other respects, and who as a result imposes costs on the state, shall reimburse such costs, regardless of how litigation costs in the case would otherwise be apportioned.

If, by carelessness or oversight, the aggrieved person or a public defence counsel imposes costs on the state or the defendant, he shall reimburse such costs. (SFS 1990:443)

Section 5

If, pursuant to this chapter, a private party is required to reimburse, in whole or in part, litigation costs, and it is found that the party's legal representative, or the party's attorney or counsel, or a defence counsel chosen by the party has caused the costs by conduct described in Section 3, or by carelessness or oversight of the kind referred to in Section 4, the court, even if not so requested, may on its own motion impose liability for payment of the costs upon him together with the party. (SFS 1990:443)

Section 6

When several persons are convicted for joint commission of the same offence or for offences that are connected or when several aggrieved persons are required to reimburse litigation costs, they shall be jointly and severally liable for the costs. However, to the extent that a particular item of costs is attributable to a part of the case involving only one of these persons or that one of them has caused an item of costs through carelessness or oversight of the kind referred to in Section 4, only that person shall pay that item of costs.

When under Section 5 a person and a party are both liable to reimburse litigation costs, they shall be jointly and severally liable for the costs. (SFS 1990:443)

Section 7

When two or more persons are jointly and severally liable for litigation costs, the court may, on the request of one of them and based on the circumstances, specify the portion of the costs that

each should bear or authorize the complete indemnification of one or more by another.

Section 8

When a preliminary investigation does not result in a prosecution, Sections 2 through 7 shall apply to costs incurred during the investigation. The state may not be ordered to reimburse such costs unless the investigation was initiated without reason or there is extraordinary reason for such reimbursement.

When the aggrieved person, pursuant to Chapter 20, Section 9, has taken over a prosecution from which the prosecutor has withdrawn, Sections 1 through 7 shall apply to liability for costs incurred prior to the take-over.

Section 9

If the prosecutor seeks an order that the defendant reimburse litigation costs, or if a defendant wishes to be reimbursed for such costs, he shall present his demand before the termination of the proceedings. If he fails to do so, he forfeits his right to seek reimbursement for costs incurred in the same court. The court shall determine on its own motion whether disbursements paid out of public funds in accordance with court decisions shall be reimbursed by the defendant, or by any other person, or shall be paid from public funds. Issues referred to in Section 3 shall also be raised and decided by the court on its own motion.

The court shall rule upon liability for litigation costs in its final disposal of the case.

If a preliminary investigation has been commenced, but has not resulted in a prosecution, and the suspect desires to claim reimbursement for costs he incurred during the investigation, or if a question is sought to be raised concerning reimbursement to the

community at large for such costs, an application for such reimbursement shall be made to the court. (SFS 1972:430)

Section 10

If a case is appealed to a superior court, liability for litigation costs shall be decided with regards to the outcome of the appeal. A judgment by an appellate court shall be considered unfavourable only when the defendant is sentenced to a sanction regarded as more severe than the one he was sentenced to in the lower court, or, if he is found not guilty by the lower court but found to have committed the offence by the superior court or when an appeal by the defendant results in no change in the judgment of the lower court. The provisions of Section 3 apply to appeals pursued by the prosecutor if caused by the aggrieved person without good reason.

The provisions of this chapter concerning actions commenced in lower courts shall apply correspondingly to liability for costs incurred in cases in which an issue is separately appealed to a superior court.

If a case is remitted to a lower court, the issue of liability for costs incurred in the superior court shall be determined as part of the resumed proceedings.(SFS 1990:443)

Section 11

The applicable parts of Chapter 18 apply to the apportionment of litigation costs in cases brought solely by the aggrieved person.

However, the provisions of Section 1, paragraphs 2 and 3, shall apply to the liability of the defendant to compensate the state for costs for public defence counsel.

In addition to the provisions of Sections 3 and 4, that prescribed by Chapter 18, Section 11 applies to issues concerning the liability of the aggrieved person to pay, and right of the aggrieved person to be reimbursed for, litigation costs in a case in which he supported the public prosecution or otherwise brought an action together with the prosecutor or where the prosecutor presented the action for the aggrieved person. (SFS 1996:1624)

Section 12

Any inconsistent provisions on litigation costs in any law or decree shall take precedence over the provisions of this chapter.

III. COMMON PROVISIONS

Chapter 32

TIME LIMITS AND LEGAL EXCUSE

Section 1

When a party or another person is required by a court order to appear before the court or otherwise to perform any other act in the proceedings, he shall be afforded a reasonable time to comply therewith.

Section 2

If a summons or an appeal must be served by a party and the court has not, at the time the court is to deal with the case, received any evidence that service has been effected in the prescribed manner and nor has the other party appeared or expressed views on the issue, the action of the party shall lapse. A notice of this effect shall be included in the court's directive concerning the service. (1994:1034)

Section 3

If a party or another person is required by court order to appear before the court or otherwise to perform an act in the course of the proceedings and the court finds that he has not been afforded reasonable time, or it otherwise constitutes reason for the extension of a period prescribed by the court, the court shall specify a new period.

Section 4

If, when a hearing has been scheduled but not yet held, the court finds that a circumstance exists that can be assumed to hinder the

holding of the hearing or to prevent the hearing to be held to the extent necessary, the court may direct a new date for the hearing.

When a party has become aware of such a circumstance, or when a summoned to attend a hearing finds that he is unable to comply with the summons, he shall notify immediately the court thereon.

Section 5

If it is of extraordinary importance for the adjudication of a case that an issue sub justice in another court proceeding, or in a proceeding of another kind, be determined first or another impediment to trial of considerable duration is encountered, the court may order a stay of proceedings pending removal of the impediment.

Section 6

If a person required by court order to appear before a court or otherwise to perform another act in the course of the proceedings fails to comply with the order and there is reason to believe that he has legal excuse, no sanction shall be imposed for his non-compliance nor shall it expose him to any detriment in the proceedings.

If a person has failed according to the first paragraph but, owing to any special circumstance, it can be assumed that he has a legal excuse, the court shall afford him an opportunity of submitting an elucidation of the reason of his failure. Consequently the court shall postpone the issue of imposing a sanction or of another measure as a result of the failure. (SFS 1987:747)

Section 7

Repealed by 1994:1034

Section 8

Legal excuse exists when a person was impeded from doing what was required of him by reason of a breakdown in the general modes of communication, sickness, or another circumstance that he did not have reason to anticipate or the court else regards as constituting a valid excuse.

As to a party, legal excuse also is deemed to exist when an attorney retained by him was impeded by an impediment of the kind mentioned above and the party was unable to commission another attorney in time.

Chapter 33

PLEADINGS AND SERVICE

Section 1

Applications, notices, and other pleadings in litigation shall state the name of the court and the name and residence of the parties.

The party's first written pleadings shall specify the party's:
1. occupation and the national registration number of the person or organization,
2. postal address, the address of the place of work and, where appropriate, any other address where the party can be found for service by a bailiff,
3. telephone number to the residence and workplace; however, the number of an secret telephone subscription needs to be stated only if the court so orders, and
4. other circumstances of importance for service upon him.

When a legal representative conducts the party's action, corresponding information shall be stated about him. When the party has retained an attorney, his name, postal address and telephone number shall be stated.

Furthermore, a summons application shall state information about a private defendant in the respects stated in the second and third paragraphs. However, information about the occupation, workplace, telephone number of the defendant or his legal representative or about the defendant's attorney need be furnished only if the information is available without special inquiry for the applicant. If the defendant lacks a known address, information shall be supplied about the inquiry made to establish that.

If a party requests that a witness or another person shall be heard, the party is obliged to furnish information about him to the extent stated in the fourth paragraph.

The information stated in paragraphs 1 through 5 shall refer to the state of affairs existing when the information was filed with the court. If a change occurs in any circumstance or the information is incomplete or incorrect, the court shall be notified thereon without delay. (SFS 1985:267)

Section 2

When the court shall notify a person of the contents of a document or of another matter, it may occur by service. Service shall be employed, where especially prescribed, or if, with reference to the purpose of the provision of notification, it is clear that service should be employed, but otherwise be used only if required by the circumstances.

When a pleading or another paper filed by a party shall be served, the party must attach to the document a certified copy thereon. If service is to be effected by the court and more than one copy is required to effect the service, the party shall furnish the court with the required number of copies. If the party does not furnish the said copies, the court shall order the copying of the document at the party's expense. (SFS 1990:1411)

Section 3

A document is considered to be received by the court on the day when the document or a note of the paid dispatch in which it is enclosed, reached the court or was delivered to a competent court officer. When the court has been specially notified that a message to the court has arrived at a telecommunications undertaking, the telecommunication is deemed to have been received by the court at the time when the notice reached a competent court officer.

If it may be assumed that the document, or a notice of it, on a certain day was delivered at the court registry or was kept separate for the court at a postal office, the document is deemed to have been received by the court on that day provided that it was delivered to a competent officer on the work-day immediately following thereafter.

If necessary the court may request that a telefax or other message which is not signed with an original signature is acknowledged by the person despatching it by a document with an original signature. If the court has requested such an acknowledgement but not received one, the court may disregard the message. (SFS 1994:1034)

Section 4

Special provisions have been enacted as to service in general. (SFS 1970:429)

Section 5

The court shall effect service of default judgments only:
if it implies that a debt is determined to be payable with special right of priority in moveable or immovable property or,
if the party demanding the default judgment requests it, or,
if the party has been granted legal aid. (SFS 1996:1624)

Section 6

The provisions of the Service Act (1970:428), Sections 5, 12 and 15, do not apply to service of a summons in criminal cases.

In civil cases service of summons applications may be made as prescribed in the Service Act, Section 12, only if there is reason to believe that the searched person has fled or is otherwise concealing himself.

If it has not been possible to serve a summons application in a civil case which is amenable to out of court settlement, the court shall consider whether efforts to serve should continue or if the plaintiff himself should be invited to attend to service. In that connection regard should be taken to work and the costs so far applied on service, the possibility of continued efforts succeeding and the circumstances generally. If the plaintiff does not accept the offer, the summons application shall be dismissed. (SFS 1995:637)

Section 7

Repealed by SFS 1992:1511

Section 8

If a party lacking residence within the Realm has not notified the court of the commission of a counsel who resides within the Realm or in another state within the European Economic Area and who is authorized to accept service in the case on the party's behalf, the court may direct the party, upon his first appearance in court, to engage such a counsel and notify the court of his assignment. If the party fails to comply with the directive, service upon the party may be made by ordinary mail at his last known address. (SFS 1992:1511)

Section 9

If required, the court may provide for the translation of documents filed with or dispatched from the court.

A person who has assisted the court in translation shall be entitled to a reasonable remuneration to be paid by the State.

Paragraphs 1 and 2 shall be applied also as to transfer of Braille to ordinary writing or vice versa. (1987:747)

Section 10

If a summons application does not meet the regulations in Section 1, paragraphs 1 through 4, the applicant shall be directed to complete the application unless the deficiency is of minor importance to the issue of service. If, in cases where out of court settlement is permitted, the directive is not obeyed, the court may dismiss the application unless it is unreasonable. (SFS 1985:2–67)

Section 11

Every person being not a party who shall be heard in a trial is obliged, upon request of the court, to provide information about his personal relations to the extent that as to the party is stated in Section 1, paragraphs 2 and 6. (SFS 1985:267)

Section 12

Every person who pursuant to Section 1 or 11 shall furnish information on his personal relations may be directed, under penalty of fine, to fulfil his obligation to supply the information. (SFS 1985:267)

Sections 13 to 27

Repealed by SFS 1970:429.

Chapter 34

PROCEDURAL IMPEDIMENTS

Section 1

The court shall consider any impediment to its entertainment of an action as soon as reason therefor arises.

In the absence of provision to the contrary, the court shall take notice of procedural impediments on its own motion.

Section 2

Any party who wishes to assert an objection that the court lacks jurisdiction to entertain the case shall do so, when he makes his first appearance in the case. If prevented at that time by legal excuse from presenting the objection, he shall present it as soon as possible after the excuse has ceased to exist. A party who fails to object within the time stated above forfeits his right to raise the objection.

Section 3

If a party has made a timely objection pursuant to Section 2, the court shall issue a separate decision thereon as soon as possible. As to an objection based upon any other alleged procedural impediment, the court shall issue a separate decision on that objection, if the character of the impediment so requires.

PART THREE

EVIDENCE

Chapter 35

EVIDENCE IN GENERAL

Section 1

After evaluating everything that has occurred in accordance with the dictates of its conscience, the court shall determine what has been proved in the case.

As to the effect of certain kinds of evidence, the specific provisions thereon shall govern.

Section 2

Proof of a circumstance that is generally known is not required.

Nor is proof required as to legal rules. If foreign law is to be applied and its contents is not known to the court, however, the court may request party to present proof thereon.

Section 3

If, in a case amenable to out of court settlement, a party admits a certain circumstances, his admission constitutes full proof against him. If the party withdraws his admission, the court shall determine, in view of the alleged reasons for the withdrawal and other circumstances, the evidentiary value of the admission, if any.
In cases other than those mentioned in the first paragraph, the court shall determine the evidentiary value of the admission with respect to the particular circumstances. (SFS 1958:641)

Section 4

If a party fails to respond to a court directive to appear before it or else to perform any other act in the proceedings or refuses to answer a question relevant to the inquiry, the court shall determine, in view of all the attending circumstances, the evidentiary value of the party's behaviour.

Section 5

With respect to the extent of damages, if full proof cannot be presented at all, or only with difficulty, the court may estimate the damage in a reasonable amount. This may also be done provided that the proof can be assumed to entail costs or inconvenience not being in a reasonable proportion to the size of the damage and the claimed compensation concerns only a lesser amount. (SFS 1988:6)

Section 6

Presentation of evidence is the responsibility of the parties. If it is found necessary, the court may also arrange for presentation of evidence on its own motion. In cases amenable to out of court settlement or in criminal cases concerning offences not within the domain of public prosecution, however, the court may neither hear a witness unless a party requests that the witness be heard or the witness was previously heard on request of a party, nor, except on request of a party, direct the production of documentary evidence.

Section 7

If the court finds that a circumstance that a party offers to prove is without importance in the case, or that an item of evidence offered is unnecessary or evidently should be of no effect, the court shall reject that proof. The court may also reject an item of evidence offered if the evidence can be presented in another way with considerably less trouble or costs.

Section 8

If a main hearing is held, the evidence shall be taken at that hearing unless, in accordance with special provisions, the evidence may be taken outside the main hearing. If main hearing is not held, or if evidence else shall be taken outside main hearing, the evidence may be taken at the same court or at another court.

Section 9

When evidence shall be taken outside main hearing, the parties shall be summoned to appear. If, in a criminal case, the defendant is under arrest or in detention and his attendance is found necessary, the court shall direct that he be brought before it. If a party fails to appear, the evidence may nonetheless be taken.

Section 10

If the court orders evidence to be taken by another court within the Realm, the court shall present accordingly to the court designated to take the evidence a request and in the request briefly state the matter at issue, the evidence to be taken, and the circumstance to be proved. The case file shall be attached to the request if transmission of the file is found appropriate and there is no impediment to its dispatch from the court.

Section 11

The court requested to take evidence shall fix time and place for the taking of evidence. At the hearing the court has the same authority as if the case were pending before it.

The court that took the proof shall send the record from the proof-taking, together with all the documents forwarded to it or else

relating to the matter shall be forwarded, to the court in which the case is pending.

Section 12

Special provisions have been enacted as to taking of evidence abroad.

Section 13

The evidence taken outside a main hearing shall be retaken at the main hearing if the court finds it of importance in the case and no impediment exists to its presentation.

If, in a case appealed to a court of appeal, the district court took oral evidence or held a view of the locus in quo, retaking of that evidence is required only if the court of appeal finds evidence of importance for the inquiry. In the Supreme Court, however, the evidence that have been taken by a lower court may be retaken only for extraordinary reason.

When evidence is not retaken, it shall be brought forward from the record or in any other suitable way. (SFS 1989:656)

Section 14

A statement made in writing by a person by reason of a pending or contemplated proceeding, or a record of a statement that, by reason of such a proceeding, a person has rendered to a prosecutor or a police authority or else outside court, may be admitted as proof only:
1. if it is specifically authorized by law,
2. if an examination of the person who made the statement cannot be held at, or outside, the main hearing or otherwise before the court, or

3. if there are special reasons with regard to the costs or inconvenience that an examination at, or outside, the main hearing can be assumed to imply, and also to what can be assumed to be attained by such an examination, the importance of the statement, and other circumstances.

The provisions of the first paragraph concerning a written or recorded statement shall also apply to a phonetic or similar recording of a statement. (SFS 1987:747)

Chapter 36

WITNESSES

Section 1

Everyone who is not a party in the case may be heard as a witness. In a criminal case, however, the aggrieved person may not be heard as a witness even if he is not a party to the proceedings.

Nor may in a criminal case testify any person who has been prosecuted for participation in the criminal act to which the testimony refers or for another criminal act directly connected with the first act.

What is stated in the second paragraph about the person having been prosecuted shall also bear upon any person who as to a criminal act there referred to
1. is reasonably suspected and has been informed of the suspicion pursuant to Chapter 23, Section 18,
2. has been notified of an order of either summary monetary penalty or summary imposition of breach-of-regulations fine, or
3. has not been prosecuted in consequence of a decision according to the provisions on waiver of prosecution or on prosecution after special examination.

If a person referred to in the second or third paragraph shall be heard in a trail that does not concern a prosecution against himself, the provisions concerning defendants in Chapter 31, Section 4, Chapter 37, Section 1, Chapter 45, Section 15, and Chapter 46, Section 15, paragraph 1 shall apply with regard to summonses to attend a hearing, consequences of non-attendance at the hearing, and the examination. The provisions in Chapter 36, Sections 24 and 25, shall apply with regard to the right to compensation for attendance at a hearing. (SFS 1987:747)

Section 2

If a member of the court is called as a witness, he shall consider on his oath as a judge whether he knows anything that might be informative in the case. If he finds that he so does, he may testify as a witness.

Section 3

A spouse, former spouse, relative by blood or by marriage in direct lineal ascent or descent, or sibling of a party, or a person so related by marriage to a party that one of them is, or has been, married to a sibling of the other, or a person correspondingly related to a party, is not obliged to testify.

A person correspondingly related to a party's legal representative, however, may not avoid the duty to testify by reason of that relationship. (SFS 1973:240)

Section 4

If testimony is sought from a person who is under the age of fifteen years or suffers from mental disturbance, the court shall determine in accordance with the circumstances whether he may be heard as a witness. (SFS 1991:1549)

Section 5

Persons who may not provide information pursuant to either the Secrecy Act (1980:100), Chapter 2, Section 1 or 2, or Chapter 3, Section 1, or any provision referred to in any of these statutory provisions, may not be heard as witness concerning that information without the permission by the authority in the activity of which the information has been obtained.

Advocates, physicians, dentists, midwives, trained nurses, psychologists, psychotherapists, officers at family guidance officers under the Social Services Act (1980:620) and their counsel may not testify concerning matters entrusted to, or found out by, them in their professional capacity unless the examination is authorized by law or is consented to by the person for whose benefit the duty of secrecy is imposed. Persons who pursuant to the Secrecy Act, Chapter 9, Section 4, may not provide the information therein referred to, may be heard as a witness concerning that information only if authorized by law or the person for whose benefit the duty of secrecy is imposed consents thereto.

Attorneys, counsel or defence counsel may be heard as a witness concerning matters entrusted to them in the performance of their assignment only if the party gives consent.

Notwithstanding the provisions in the second and third paragraphs, there is an obligation to give evidence for
1. persons other than defence counsel in cases concerning offences referred to Chapter 14, Section 2, fifth paragraph of the Secrecy Act (1980:100) and
2. persons obliged to provide information under Section 71 of the Social Services Act (1980:620) on cases under Sections 25 or 27 of the same Act or under the Special provisions for the Care of Young Persons Act (1950:52)

Chapter 36 of the Swedish State Church Act (1992:300) contains provisions concerning the duty to observe secrecy for persons ordained to serve as a minister of the Church of Sweden. Ministers of a congregation other than the Church of Sweden or those having a corresponding standing in such a congregation may not be heard as a witness concerning matters about which they have been informed at a secret confession or else during conversations for pastoral care.

Anyone who is bound by duty to observe secrecy pursuant to the Freedom of Press Act, Chapter 3, Section 3, or the Fundamental Law on the Freedom of Expression, Chapter 2, Section 3, may be heard as a witness concerning the circumstances to which the secrecy duty relates only to the extent prescribed by the said sections.

If pursuant to what is stated in this section a person may not be heard as a witness concerning a particular circumstance, nor may a witness examination occur with the person who, bound by duty of secrecy, has assisted with interpretation or translation. (SFS 1997:314)

Section 6

A witness may decline to testify concerning a circumstance that should reveal that he, or a person related to him as stated in Section 3, has committed a criminal or dishonourable act. Further, a witness may refuse to give testimony that should involve disclosure of a trade secret unless there is extraordinary reason for examining the witness on the matter.
Section 7

The person who shall be heard as witness shall be summoned, under penalty of fine, to appear at the hearing before the court.

The summons to attend shall contain necessary information of the parties and the case and briefly describe the matter on which the testimony is sought. Further, the witness shall be reminded of his rights and duties pursuant to the provisions in Sections 20 and 23 through 25. (SFS 1987:747)

Section 8

The court may instruct the person who shall be heard as witness that he, before his appearance to testify, refreshes his knowledge on

the subject of his testimony by examining accountbooks, notes, and other documents accessible to him, or by inspecting a place or an object, provided that this can be done without considerable inconvenience to the witness.

If, pursuant to the Freedom of Press Act, Chapter 3, Section 3, paragraph 2, clause 4 or 5, or to the Fundamental Law on the Freedom of Expression, Chapter 2, Section 3, paragraph 2, clause 4 or 5, the court shall determine whether or not a person under duty of secrecy concerning information stated in said Sections, nevertheless, may be heard as a witness thereon, the court shall at first obtain an opinion from the enterprise at which the witness has got aware of the information unless special reasons are to the contrary. (SFS 1991:1561)

Section 9

In the absence of special reason for his attendance, a witness may not observe a hearing in the case prior to his testimony.

When there are two or more witnesses in the case, each shall be heard separately. If their separate testimony is ambiguous or conflicting or else special reason exists, witnesses may be examined confronting each other.

Section 10

Before hearing a witness, the court shall ask him to state his full name and if necessary his age, occupation, and residence. The court shall also endeavour to ascertain whether the witness has a relationship to any of the parties or the matter at issue that might be of importance in evaluating the reliability of his testimony, or whether any other circumstance exists that may be of importance in that respect.

Any witness related to a party as stated in Section 3, shall be reminded that he is under no obligation to testify. (SFS 1994:420)

Section 11

Before giving testimony, the witness shall take this oath:
”I N.N. promise and affirm on my honour and conscience that I shall speak the whole truth and will not conceal, add, or change anything.” (SFS 1975:1288)

Section 12

Repealed by SFS 1975:1288.

Section 13

An oath may not be taken by:
1. a person under the age of fifteen years; or
2. a person who owing to mental disturbance is found to lack the required insight in the importance of the oath.

Nor may in criminal cases an oath be taken by a person related to the defendant as stated in Section 3. (SFS 1991:1549)

Section 14

Before hearing a witness, the court shall remind him of his duty to tell the truth and, when he has taken the oath, of its significance. When there is reason, the witness shall also be reminded of the provisions in Sections 5 and 6. (SFS 1975:1288)

Section 15

Each witness shall take the oath separately.

A witness who is reheard in the case may be heard under the oath taken previously; the witness shall be reminded by the court that this oath is still binding on him. (SFS 1975:1288)

Section 16

A witness shall give his testimony orally. Written statements of witnesses may not be invoked. However, with the court's consent, a witness may use written notes in support of the memory.

During the witness examination, statements previously made by the witness before a court, a prosecutor, or a police authority may be brought forward only when the witness' testimony during the examination departs from what he has previously stated, or when the witness declares himself unable or unwilling to testify. (SFS 1987:747)

Section 17

A witness examination shall be opened by the party who has invoked the witness unless the court- directs otherwise. At the beginning of the examination the witness shall have an opportunity to give his testimony in a continuous sequence all by himself or, if necessary, with the support of questions.

Subsequently, the opposing party shall be afforded an opportunity to hear the witness. If the opposing party is not present or if it is required by another cause, the court should conduct this part of the examination.

Afterwards the court and the parties may put additional questions to the witness. The party who invoked the examination ought to get the first opportunity to do so.

If none of, or both, parties have invoked the testimony, the court shall open the examination, unless it is more appropriate that one of the parties opens it.

Questions inviting to a specific answer by their content or form or by the way in which they are presented may not be put unless, when examining pursuant to paragraph 2, it is required in order to investigate to which extent the witness' statement corresponds with the real course of the event. The court shall reject questions that are manifestly irrelevant to the matter at issue, confusing, or otherwise inappropriate. (SFS 1987:747)

Section 18

If there is ground to believe that, in the presence of a party or any listener, a witness does not tell the truth openly through fear or any other cause, or if a party or a listener hinders the witness from testifying by interrupting the witness or otherwise, the court may order the party or listener to be excluded from the courtroom during the examination.

A testimony delivered pursuant to the first paragraph in the absence of a party shall be read to the extent necessary when the party is present again. The party shall be afforded an opportunity to put questions to the witness. (SFS 1987:747)

Section 19

An examination of a witness may take place outside main hearing:
1. if it is not possible for the witness to attend the main hearing, or
2. if his attendance at the main hearing should occasion costs or inconvenience that are not in a reasonable proportion to the importance of the examination being held at the main hearing.

If it is of extraordinary importance for the inquiry, other proceedings may also occur in connection with an examination pursuant to the first paragraph. (SFS 1987:747)

Section 20

If a witness summoned to attend pursuant to Section 7 fails to do so, the court shall either direct a new default fine provided that the case is scheduled to a subsequent date or shall order that he be brought in custody before the court at once or at the scheduled date. (SFS 1987:747)

Section 21

If a witness, without a valid excuse, refuses to take an oath, to testify, to answer a question, or to obey an order pursuant to Section 8, the court shall order the witness to perform his duty under penalty of fine, and, if the witness persists in his refusal, under penalty of detention. A witness so detained may not be held in custody longer than three months and in no case beyond the time when the court disassociates itself from the case. A detained witness shall be brought before the court at least once every two weeks. (1975:1288)

Section 22

As to the witnesses referred to in Section 13, paragraph 1, the provisions in this chapter concerning directives under penalty of fine and detention shall not apply; however, such a witness may be brought to the court in custody.

If the person who invoked the testimony of a witness disclaims examination of him, or if the issue of his examination is otherwise dropped, no coercive measures under Section 20 or 21 may be imposed upon the witness. (SFS 1987:747)

Section 23

If a witness commits such neglect or contumacy as stated in Section 20 or 21, and any of the parties incurs litigation costs thereby, on request of that party, the court shall order the witness to compensate for such costs to the extent found reasonable. If also a party was ordered by the court to compensate the opposing party for such costs, upon payment, the party may claim reimbursement from the witness the sum ordered to be paid by the witness.

The provisions above as to the liability of a witness to reimburse a party for costs shall apply to costs occasioned the State. (SFS 1987:747)

Section 24

A witness is entitled to compensation as stated below.

The compensation of a witness invoked by a private party shall be paid by the party. However, if it is reasonable having regard to the party's economic circumstances, the court may order that the compensation shall be paid out of public funds. In cases amenable to out of court settlement and in prosecutions for offences that do not fall within the domain of public prosecution, the compensation of witnesses called by the court on its own motion shall be paid by the parties jointly and severally. In other cases, compensation to witnesses shall be paid out of public funds.

Compensation paid by a party shall include reimbursement of necessary costs for travel and maintenance and loss of time in an amount deemed reasonable by the court. Compensation paid out of public funds shall be determined by the court pursuant to regulations issued by the government. (SFS 1996:1624)

Section 25

Anyone called as a witness is entitled to receive an advance for travel and maintenance costs. The advance shall be paid by the party liable to pay compensation according to Section 24. The amount of the advance is decided by the court.

If a party who is obliged to pay witness in advance fails to pay the advance when requested to do so, the party may not later request examination of that witness if this would occasion a postponement of the proceedings in the case.

Further regulations concerning advances are issued by the government. (SFS 1974:573)

Chapter 37

EXAMINATIONS OF PARTIES AND OF AGGRIEVED PERSONS NOT BEING A PARTY *

Section 1

As to the examination of a party or an aggrieved person being not a party for the purpose of obtaining evidence, the provisions in Chapter 36, Section 17, shall apply. However, unless the court directs otherwise, in a criminal case the examination of the defendant shall be opened by the court and, after that, the conduct of the examination shall pass to the prosecutor. (SFS 1987:747)

Section 2

In a civil case the examination of one or both parties for the purpose of obtaining evidence may occur under truth affirmation. The examination in that connection should be limited to such circumstances that are of special importance in the case.

Before testifying pursuant to the first paragraph, the party shall take this affirmation:
”I N.N. promise and affirm on my honour and conscience that I shall speak the whole truth and will not conceal, add, or change anything.” (SFS 1987:747)

Section 3

As to examinations pursuant to this chapter in other respects the provisions in Chapter 36, Section 9, paragraph 2, Section 10, paragraph 1, Section 13, paragraph 1, and Sections 16, 18 and 19 shall be applied.

* Title amended by SFS 1987:747.

At examinations under truth affirmation, in addition to the sections stated in the first paragraph, the provisions in Chapter 36, Sections 5 and 6, Section 8, paragraph 2, and Sections 14 and 15 shall also be applied.

In criminal cases, in addition to the sections stated in the first paragraph, with regard to compensation to aggrieved persons directed to attend for examination on account of a public prosecution, the provisions in Chapter 36, Sections 24 and 25, shall be applied. The said provisions shall also apply when a party other than an aggrieved person or a defendant has been directed to attend such an examination.

When applying the sections stated in paragraphs 1 through 3, what is said of a witness shall apply to a party or to an aggrieved person not being a party in the case and what is said regarding oath shall apply to truth affirmation. (SFS 1987:747)

Sections 4

Repealed by SFS 1987:747.

Section 5

Repealed by SFS 1987:747

Chapter 38

DOCUMENTARY EVIDENCE

Section 1

Written documents invoked as evidence should be produced in the original. A certified copy may be produced if this is found sufficient or if the original is not obtainable.

If a written document contains information that the holder pursuant to Section 2 is neither entitled nor obliged to disclose or that otherwise should not be disclosed, the holder may produce, in lieu of the document, a certified extract thereon.

Section 2

Anybody holding a written document that can be assumed to be of importance as evidence is obliged to produce it; in criminal cases, however, such an obligation is not imposed upon the suspect or any person related to him as stated in Chapter 36, Section 3.

Neither a party, nor any person related to him as stated above, is obliged to produce written communications between the party and such a related person or between such related persons. Neither a public official nor any other person referred to in Chapter 36, Section 5, may produce a written document if it can be assumed that its contents is such that he may not be heard as a witness thereto; when the document is held by the party for whose benefit an obligation of confidentiality is imposed, that party is not obliged to produce the document. The provision in Chapter 36, Section 6, as to the privilege of a witness to refuse to testify shall correspondingly apply to the holder of a written document if the contents of the document is such as referred to in the said Section.

The obligation to produce written documents does not extend to jottings or any other like personal notes prepared exclusively for one's private use unless extraordinary reason exists for their production.

Section 3

If a holder of a written document, on the basis of a legal relationship between himself and a party or else prescribed by law, is obliged to surrender the document or to allow another to inspect it, this obligation shall also apply to the production of the document in a trial.

Section 4

When somebody is obliged to produce a written document as evidence, the court may order him to produce it. The person against whom the order should be addressed shall be afforded an opportunity to state his views. For determination of an issue so raised, an examination of the person may be held in accordance with the provisions in Chapter 36 and 37 and also other proof may be submitted.

Section 5

An order for the production of a written document shall state the place and manner of production. The person obliged to produce the document may be compelled to perform his duty under penalty of fine. If it appears more suitable, the court may order that the document be obtained and be made accessible by the office of the enforcement authority.
(SFS 1981:828)

Section 6

The taking of evidence of written documents may take place outside main hearing:
1. if the document cannot be produced at the main hearing, or
2. if the production at the main hearing would occasion costs or inconvenience that are not in a reasonable proportion to the importance of the evidence taking being held at the main hearing.

If it is of extraordinary importance for the inquiry, any other proceeding may also take place in connection with a proof-taking pursuant to the first paragraph. (SFS 1987:747)

Section 7

Anyone other than a party who has produced a written document on the request of a party or the court is entitled to compensation for his costs and inconvenience in an amount found reasonable by the court.

When the production has been requested by a private party, the compensation shall be paid by the party. Otherwise, the compensation shall be paid
out of public funds.

Section 8

If a public document can be assumed to be of importance as evidence, the court may order the document to the placed at the court's disposal.
The first paragraph does not apply as to:
1. a document containing information subject to secrecy pursuant to the Secrecy Act (1980:100), Chapter 2, Section 1 or 2, or Chapter 3, Section 1, or to a provision to which is referred in any of these sections, unless the authority authorized to try the matter of releasing the documents permits it,

2. a document, the contents of which are of the kind that nobody having dealt with the document may be heard about it pursuant to Chapter 36, Section 5, paragraphs 2, 3, 4 or 6, or
3. a document, the production of which would involve the disclosure of a trade secret, unless there is extraordinary reason for it. (SFS 1980:101)

Section 9

If specific regulations on the obligation to produce a written document diverging from the provisions in Sections 1 through 8 have been issued, these shall govern. (SFS 1980:101)

Chapter 39

VIEWS

Section 1

For the inspection of immovable property, objects that cannot be brought conveniently to the court, or the scene of a particular occurrence, the court may hold a view at the locus in quo.

Trade secrets may not be revealed at a view unless extraordinary reason justifies disclosure.

Section 2

A view may take place outside main hearing,
1. if the view cannot be held at the main hearing, or
2. if a view at the main hearing should occasion costs or inconvenience that are not in a reasonable proportion to the importance of the view being held at the main hearing.

If it is of extraordinary importance for the inquiry, any other proceeding may also take place in connection with a view pursuant to the first paragraph. (SFS 1987:747)

Section 3

Repealed by SFS 1987:747.

Section 4

Except for the cases prescribed in Chapter 41, the costs of a view shall be paid out of public funds. (SFS 1969:244)

Section 5

Anybody holding an object that can be brought conveniently to the court and that can be assumed to be of importance as evidence, is obliged to make the object available for inspection at a view; however, in criminal cases, such an obligation is not imposed upon the suspect or any person related to him as stated in Chapter 36, Section 3. The provision in Chapter 36, Section 6, as to the privilege of a witness to refuse to testify shall correspondingly apply to the privilege of a party or another person to refuse to make an object available for inspection at a view. As to the obligation to produce a written document for inspection at a view, the provisions in Chapter 38, Section 2, shall apply.

The provisions in Chapter 38, Sections 3 through 9, shall correspondingly apply to objects and written documents that shall be made available for inspection at a view. (SFS 1980:101)

Chapter 40

EXPERTS

Section 1

If, for the determination of an issue the appraisal of which requires special professional knowledge, it is found necessary to call upon an expert, the court may obtain an opinion on the issue from a public authority or officer or from a person specially authorized to furnish opinions on the issue or may commission one or more persons known for their integrity and their knowledge of the subject to deliver an opinion.

Section 2

A person whose relationship to a party or the matter at issue is such as to cast doubt upon his reliability may not be called as an expert.

Section 3

Before appointing an expert, the court should invite the parties to state their views thereon. If the parties agree upon an expert, he shall be used provided that he is found suitable and there is no impediment to his appointment; however, the court may commission an additional expert.

Section 4

Except for persons who in their official capacity are obliged to assist as experts or are specially authorized to furnish opinions, no person is required to perform the commission of an expert unless he voluntarily undertakes to do so. A person who has undertaken such a commission may not avoid its performance without valid excuse. No expert, however, is obliged to disclose a trade secret unless

extraordinary reason requires that he gives an opinion that entail such disclosure.

Section 5

When, for the elucidation of a circumstance of importance for the task of the expert, a party or another person should be examined or any other inquiry should occur in court prior to the main hearing, the court may so order. The provisions on the taking of evidence outside a main hearing shall correspondingly apply.

If inspection is required of immovable property, objects that cannot be moved conveniently, or the scene of a special occurrence, the court may direct that the expert make an on site inspection. At such inspections trade secrets may not be disclosed unless the court finds that there is extraordinary reason for such disclosure.

The court may direct that objects that, pursuant to Chapter 39, Section 5, a holder is obliged to produce in court, shall be made available to the expert for inspection.

Section 6

If the presence of the parties at an expert's inspection is found appropriate, the court may direct that they shall be notified by the expert to attend the inspection. If a party has been so notified, his absence does not constitute an impediment to the occurrence of the inspection.

At the inspection a record shall be made stating the persons present and what occurred at the inspection.

Section 7

Specific provisions and other established practice shall apply to the reports of authorities or officers or of persons specially authorized to furnish opinions.

Unless the court prescribes otherwise, other experts shall submit a written opinion. The court shall direct the expert to submit the opinion within a fixed period.

The opinion shall state the reasoning and circumstances upon which the conclusions in the opinion are founded.

After the opinion is filed with the court, it shall be held accessible to the parties.

Section 8

An expert who has submitted a written opinion shall also be examined orally if a party requests it and the examination of the expert is not plainly without importance or if the court otherwise finds it necessary. As to an opinion obtained from a central administrative board, an academy, or any other official society, no person who participated in preparing the opinion may be examined orally unless such examination is found unavoidably necessary; if several persons have cooperated in preparing the opinion, only one representative of each view expressed in the opinion may be called.

Section 9

Prior to the oral examination, the expert shall take this oath:
”I N.N. promise and affirm on my honour and conscience that I shall perform the expert task assigned to me to the best of my ability.”

If the expert has already submitted an opinion prior to his examination, the oath shall be adjusted accordingly.

After the expert has taken the oath, the court shall remind him of its significance. (SFS 1975:1288)

Section 10

When an expert is examined orally, the examination is conducted by the court. However, with the consent of the court, an expert may be examined by the parties. The court and the parties may put questions to the expert.

The court shall reject questions that are manifestly irrelevant to the matter at issue, confusing, or otherwise inappropriate.

If the expert has submitted a written opinion and the court finds it suitable, all or part of the opinion may be read aloud.

Section 11

The provisions in Chapter 36, Section 9, paragraph 2, and Sections 15, 18 and 19 concerning witnesses shall also apply to experts. (SFS 1987:747)

Section 12

If a person who has undertaken to serve as an expert fails to submit his written opinion within the fixed period without a valid excuse, the court may order him to submit the opinion under penalty of fine.

Section 13

Repealed by SFS 1987:747.

Section 14

If an expert refuses without a valid excuse to take an oath, to be heard, or to respond to a question, the court shall direct the expert to perform his duty under penalty of fine. (SFS 1975:1288)

Section 15

Repealed by SFS 1987:747.

Section 16

If an expert commits such neglect or fails to cooperate as stated in Section 12 or 14 or an expert called for an examination fails to attend it, and any of the parties thereby incurs litigation costs, on request of that party the court shall order the expert to compensate for such costs to the extent found reasonable. If also a party was ordered by the court to compensate his adversary for such costs, upon payment, the party may claim reimbursement from the expert the sum ordered by the court to be paid.

The provisions as to the liability of an expert to reimburse a party for costs shall also apply to costs paid by the State. (SFS 1987:747)

Section 17

When an opinion has been submitted by an authority, officer, or a person specially authorized to furnish opinions, compensation shall be paid only to the extent special provisions so prescribe. Any other expert is entitled to compensation for costs accruing in the execution of his duties and for expenditure of his effort and time lost in an amount found reasonable by the court.

If the matter at issue is amenable to out of court settlement or if the matter concerns liability for an offence not within the domain of public prosecution, the compensation shall be paid by the parties

jointly and severally or, if only one of the parties has requested employment of the expert, by that party alone. In all other cases, the compensation shall be paid out of public funds.

Section 18

An expert is entitled to an advance of his compensation in an amount found reasonable by the court. The advance shall be made as stated in Section 17.

Further regulations concerning advances are issued by the government. (1974:573)

Section 19

As to experts not appointed by the court, but claimed by a party, the provisions in Sections 7 and 8 shall apply to the extent relevant. In other respects, when such an expert is orally examined, the provisions concerning witnesses shall apply; however, if the court finds it suitable, all or part of a written opinion may be read aloud.

Section 20

Specific regulations prescribed by law or decree on the examination of experts in particular situations shall govern.

Chapter 41

PRESERVATION OF EVIDENCE FOR THE FUTURE

Section 1

If there is a risk that evidence concerning a circumstance of importance to a person's legal rights may be lost or difficult to obtain and no trial concerning the rights is pending, a district court may take and preserve for the future evidence in the form of witness examination, expert opinion, view, or written evidence. However, evidence may not be taken pursuant to this chapter for the purpose of investigating an offence.

Section 2

Anyone desiring to take and preserve evidence for the future shall apply to the court.

The application shall state the fact expected to be established by the evidence, the nature of the evidence, the grounds claimed by the applicant in support of the proposed taking of evidence and, if possible, the other persons whose interest may be at stake.

Section 3

The provisions on taking of evidence outside main hearing shall correspondingly apply to the preservation of evidence for the future; if, however, in addition to the legal right of the applicant, the rights of another person can depend on the taking of evidence, a notice to appear need not be given to such person in the absence of special reason. No person is obliged to appear as a witness or an expert for the purpose of preserving evidence in a court other than the one for the district in which he resides.

Section 4

Costs occasioned by the taking and preservation of evidence for the future shall be paid by the applicant.

If another person whose right may depend on the taking of evidence was notified to appear and thereafter attended the taking of evidence, such a person shall be reimbursed by the applicant for necessary travel and maintenance costs and for loss of time in an amount found reasonable by the court.

PART FOUR

PROCEEDINGS IN THE LOWER COURTS

I. PROCEEDINGS IN CIVIL CASES

Chapter 42

SUMMONS, PREPARATORY PROCEEDINGS, AND DETERMINATION OF CASES WITHOUT MAIN HEARING *

Section 1

Anyone who wants to initiate an action against another shall apply in writing to the court for a summons. (SFS 1987:747)

Section 2

A summons application shall state:
1. a distinct claim,
2. a detailed account of the circumstances invoked as the basis of the claim,
3. a specification of the means of evidence offered and what shall be proved by each means,
4. the circumstances rendering the court competent, unless this is apparent from what is otherwise stated.

If the plaintiff has any requests as to the disposal of the case, he should state them in the application.

The application shall be signed by the plaintiff or his attorney in his own hand.
The items of documentary evidence invoked should be annexed to the application. (SFS 1987:747)

* Title amended by SFS 1987:747.

Section 3

If the summons application fails to comply with the regulations in Section 2 or otherwise is incomplete, the court shall direct the plaintiff to cure the defect. The same rule applies if the prescribed application fee has not been paid. (SFS 1987:448)

Section 4

If the plaintiff fails to obey a directive pursuant to Section 3, the application shall be dismissed if it is so incomplete that it cannot be used as a basis for legal proceedings without considerable inconvenience, or the plaintiff's failure refers to the payment of the application fee.

The application shall also be dismissed if it is manifest that the case can not proceed due to a procedural impediment. (SFS 1987:448)

Section 5

If the application is not dismissed, the court shall issue a summons calling upon the defendant to answer the case. If the plaintiff's statement does not constitute a legal basis for the case, or if it is otherwise clear that the case is unfounded the court may, however, immediately enter judgment in the case without issuing a summons.

If a summons is issued, it shall be served upon the defendant together with the summons application and the documents annexed thereto. (SFS 1984:131)

Section 6

If a summons is issued, preparation of the case shall take place.

The object of the preparation is to elucidate:

1. the parties' claims and objections and also the circumstances which the parties refer invoke as the basis for their actions, the plaintiff for the claim and the defendant for the answer,
2. to what extent the parties differ about the facts alleged by them,
3. which means of evidence shall be brought forward and what will be proved by each means,
4. whether further inquiry or other measures are necessary prior to the adjudication of the case, and
5. whether there are possibilities for an out of court settlement.

The court shall proceed with the preparation in the aim of a speedy adjudication of the case. As soon as found appropriate to occur, the court should hear the parties concerning the disposal of the case. (SFS 1987:747)

Section 7

During the preparation the defendant shall state immediately his answer. This shall contain:
1. the objections regarding procedural impediments that the defendant desires to make,
2. to what extent the plaintiff’s claims are admitted or contested,
3. if the plaintiff's claim is contested, the basis therefor including the defendant's position as to the circumstances being the basis of the plaintiff's claim and also the defendant's statement of the circumstances made in defence, and
4. a specification of the means of evidence invoked by the defendant and what he will prove by each means.

The documentary evidence invoked should be handed in simultaneously with the submission of the answer. (SFS 1987:747)

Section 8

During the preparation, each party shall state the additional circumstances he wishes to state and respond to the circumstances stated by the opposing party. In addition, each party shall specify, to the extent not previously stated, the evidence they wish to invoke and what he intends to prove by each specified means. Documents not already presented shall be submitted immediately. Upon request of the opposing party, a party is obliged to indicate what additional items of written evidence he is holding.

During the preparation, the court shall proceed, depending upon the nature of the case, the issues in dispute to be elucidated and the parties to state everything that they wish to invoke in the case. By questions and observations the court shall attempt to remedy unclear and incomplete statements made by the parties.

During the preparation, the court may order separate preparation of different issues or parts of the case. (SFS 1987:747)

Section 8a

Repealed by SFS 1987:747.

Section 9

The preparation is effected at sessions, or by exchange of writings, or by other procedure. If appropriate, different forms of preparation may be combined.

The answer pursuant to Section 7 shall be provided in writing, unless considering the nature of the case it is more appropriate to deliver the answer at a session.

When a written answer has been filed with the court, a session shall be held as soon as possible unless, considering the nature of the case, a continued exchange of writings is more appropriate.

If a session is held, the preparation shall be finalized, if possible, at that session. If this cannot be done, the preparation shall continue by exchange of writings or at a new session. (SFS 1987:747)

Section 10

A session may be held by telephone if that it is appropriate in consideration of the purpose of the session and other circumstances, or if a session in court would occasion costs and inconvenience not being in a reasonable proportion to the importance of such a session. As to sessions held by telephone, the Code's rules of notices, directives and also the consequences of absence do not apply. (SFS 1987:747)

Section 11

In a case where out of court settlement is permitted, the defendant may be directed to submit a written answer pursuant to Section 7 with the consequence that otherwise a default judgment may be entered against him. The order shall state what the defendant must observe pursuant to Chapter 44, Section 7a or 7b, in order to avoid having a default judgment entered against him. (SFS 1991:847)

Section 12

In a case where out of court settlement is permitted, each party shall be directed to appear at a session with the consequence that otherwise a default judgment may be entered against the party who fails to appear. Each party who shall appear in person shall also be directed to do so under penalty of fine.

In a case where out of court settlement is not permitted, the plaintiff shall be directed to appear at the session with the consequence that otherwise his action in the case lapses. If the plaintiff must appear

in person, the court shall also direct him to do so under penalty of fine. The defendant shall be directed under penalty of fine.

If the session only concerns the disposal of a procedural issue, in lieu of the directives stated in the first and second paragraph, the parties shall be directed under penalty of fine. (SFS 1987:747)

Section 13

At the session, the parties may submit or read out written submissions or other written statement only if the court finds that it would facilitate the understanding of a statement or otherwise assist the proceedings. (SFS 1987:747)

Section 14

If it is of benefit for the inquiry into the case, prior to a session or a continued exchange of writings, the court should deliver to the parties a specification of the issues which should be dealt with during the coming proceedings.

Prior to a session, the parties shall prepare the matter at issue in such a manner so that, if possible, no more preparatory sessions are necessary. (SFS 1987:747)

Section 15

If the matter is amenable to out of court settlement, a party may be directed to finally determine his action or defence and to state the evidence that he invokes if it is required in view of how during the disposal of the case he previously has asserted his action. After expiration of the time for such a statement, the party may not allege any new circumstance or any new evidence unless he reasonably proves that he has had a valid excuse for failure previously to allege the circumstance or evidence. (SFS 1987:747)

Section 16

If it is of benefit for the disposal of the case, the court, prior to the termination of the preparation, should make a written summary of the parties' positions such as these are understood by the court. The parties shall be afforded an opportunity to express their views on the summary. (SFS 1987:747)

Section 17

If the matter at issue is amenable to out of court settlement, the court shall, to the extent appropriate considering the nature of the case and other circumstances, work for the parties to reach a settlement.

If, considering the nature of the case, it is more appropriate that special mediation occur, the court can direct the parties to appear at a mediation session before a mediator appointed by the court. (SFS 1987:747)

Section 17a

In Chapter 56, Sections 13 to 15, there are provisions providing that the district courts may refer an issue to the Supreme Court for determination. (SFS 1994:1034)

Section 18

A case is determined after a main hearing. However, without such a hearing the court may
1. dispose of a case other than by judgment,
2. enter a default judgment,
3. enter a judgment based upon a party's consent to, or concession of, a claim,
4. confirm a settlement, and

5. also in other situations enter a judgment if neither a main hearing is needed in view of the inquiry into the case nor any of the parties requests a main hearing.

Prior to the adjudication of a case under the first paragraph, clause 5, if the parties cannot be considered already to have concluded their actions, they shall have an opportunity to do so.

Before a case being decided by default judgment pursuant to Chapter 44, Section 7a or 7b, the provisions in the second paragraph shall apply with regard to the plaintiff. (SFS 1991:847)

Section 19

If required in order to assure that all evidence shall be available at the main hearing in an uninterrupted sequence, orders shall be issued during the preparation for obtaining expert opinions, production of written evidence, or objects for viewing or inspection or for taking other preparatory measures.

When proof shall be taken outside the main hearing, orders thereon should also be issued during the preparation.

If a party wants that a measure stated above be taken, he shall as soon as possible apply to the court therefor.

Section 20

Unless the case has not been disposed of pursuant to Section 18, as soon as the preparation is concluded the court shall fix a date for the main hearing in consultation with the parties if possible. A main hearing may be scheduled for the disposal of a procedural issue or of portion of the matter at issue that can be decided separately although the preparation of the case in other respects is not yet concluded.

A main hearing may be held in simplified form with the consent of the parties if it is possible with regard to the rules of Chapter 43, Section 2. Such a main hearing can take place in immediate conjunction with the preparation or, provided that the same judge is presiding, within fifteen days from the completion of the oral preparation. Regardless of the parties' consent, a main hearing in simplified form may be held in immediate conjunction with the preparatory session if the resolution of the dispute is evident to the court.

If an oral preparation is held by telephone, a main hearing in simplified form may also be held by telephone in immediate conjunction with the preparation.

At a main hearing in simplified form what has occurred during the sessions before the conclusion of the oral preparation are considered to have occurred also at the main hearing without having to be repeated at the hearing. (SFS 1987:747)

Section 21

As to notices to attend the main hearing the rules in Section 12 shall apply. (SFS 1987:747)

Section 22

If a party at the main hearing wants to invoke evidence that he has not presented during the preparation, he shall immediately notify the court and the opposing party of the evidence and what he intends to prove by it.

Chapter 43

MAIN HEARING

Section 1

When the case is called, the court shall ascertain whether there is any impediment to an immediate trial and final disposal of the case.

Section 2

The main hearing shall be cancelled and scheduled for a new date:
1. if a party who should be present in person has appeared only by his attorney;
2. if a witness or expert who should be examined fails to appear;
3. if a party wishes to allege a new important reason or to invoke new evidence and it is found that a postponement is required in order to provide the opposing party with a reasonable opportunity to meet the new reason or evidence;
4. if there is otherwise an impediment to final disposal of the case.

If it can be assumed that the impediment will be removed prior to the conclusion of the proceedings, the main hearing may be held.

Section 3

If there is an impediment of the kind referred to in Section 2 against the main hearing, the hearing may nevertheless be commenced, if it can be assumed that, pursuant to Section 11, paragraph 2, that it can continue later without the need to hold a new main hearing and, considering the nature of the case, a segmentation of the hearing is not inexpedient.

If the main hearing is cancelled, however, the court may take oral evidence provided that it is permissible under the provisions

concerning taking of evidence outside main hearing and the person to be examined is present.

If it is of extraordinary importance for the inquiry, other procedures may also be implemented in conjunction with the taking of evidence pursuant to paragraph 2.

As to evidence taken pursuant to paragraph 2 or 3, the provisions concerning taking of evidence outside the main hearing shall apply to the extent relevant.
(SFS 1987:747)

Section 4

The court is responsible for the orderly and systematic progress of the proceeding. The court may direct that separate issues or parts of the case shall be taken up individually or that other departures shall be taken from the sequence prescribed by Sections 7 through 9.

The court shall also make certain that the case is investigated according to its nature and that irrelevant matters are not presented. Through questions and observations the court shall attempt to remedy any unclear and incomplete statement. (SFS 1987:747)

Section 5

The hearing shall be oral. The parties may submit or read out written submissions and other written statements only if the court finds that it would facilitate the understanding of a statement or otherwise assist the proceedings. (SFS 1987:747)

Section 6

A party shall truthfully account for the circumstances he invokes in the case, respond to the circumstances alleged by the opposing party, and answer questions put to him.

If a party makes a statement that is inconsistent with an assertion previously made by him or an inconsistency otherwise appears in his statement, he shall be asked to render an explanation thereon.

Section 7

At the hearing, the plaintiff shall state his claim for relief and the defendant shall indicate whether he admits or contests the claim. Further, the parties, each in turn, shall present their allegations and respond to the allegations of the opposing party.

If the circumstances so warrant, at the outset of the hearing the court may summarize the issues in dispute.

A party's statement during the preparation may not be read out unless his statement at the hearing differs from his previous statement or he fails to express himself or special reason otherwise justifies such reading.

When the hearing is held despite the absence of one of the parties, the court shall present the absentee's position from the documents to the extent necessary.

Section 8

After the parties have presented their allegations, the evidence shall be presented.

If a party shall be heard for evidentiary purposes, the examination should take place prior to the taking of witness evidence concerning the circumstance that the partyexamination concerns.

The court may that direct written evidence shall be deemed to be taken at the main hearing without being read out at the hearing. However, that may occur only if the parties consent thereto, the members of the court have taken part of the evidence, and it is not improper with regard to the circumstances.

At main hearings, evidence may be taken by telephone if, in consideration of the kind of evidence and other circumstances, it is appropriate, or if the taking of evidence pursuant to the ordinary rules should occasion costs and inconvenience not being in a reasonable proportion to the importance of taking the evidence in the ordinary way. As to the taking of evidence by telephone the provision in this Code on notices, directives, and also the effects of absence shall not apply. (SFS 1987:747)

Section 9

After the evidence has been presented, the parties may state what they regard as necessary for the summation of their actions.

Section 10

If, during the main hearing, a party amends a statement previously made by him, adds something thereto, or invokes circumstances or evidence that he has not mentioned prior to the commencement of the main hearing, that new material may be disregarded if it can be assumed that the party tries by his conduct to delay the trial or to surprise the opposing party or the party else acts in some other improper purpose or by gross carelessness. (SFS 1987:747)

Section 11

Apart from recesses authorized in Chapter 1, Section 9, the main hearing, if possible, shall continue without interruption until the case is ready for determination. A main hearing once commenced may be postponed only, if the hearing was held pursuant to Section 3, paragraph 1, if after the commencement of the proceedings a new important reason is interposed or knowledge of new significant evidence is obtained, or the court otherwise deems postponement necessary. When the main hearing is postponed, it shall be resumed as soon as possible.

If the action is postponed one or more times and the total postponement time does not exceed fifteen days, the main hearing may be continued. Otherwise, a new main hearing shall be held unless, considering the nature of the case, there are extraordinary reasons for holding a continued main hearing and also the purpose with a continuous hearing is not neglected to a substantial extent. When a main hearing held in simplified form is postponed, a new main hearing shall always be held without applying Chapter 42, Section 20, paragraph 2.

The parties shall be notified of a postponed main hearing immediately or by a special notice. As to the directives for parties, the provisions in Chapter 42, Section 12, shall apply. If a case is scheduled for a continued main hearing, in lieu of a directive pursuant to Section 12, paragraph 1, a party may be directed to appear with the consequence that otherwise either a default judgment may be entered against him or the action may be adjudicated notwithstanding his absence. (SFS 1987:747)

Section 12

When a case is scheduled for a continued or new main hearing, in order to make it possible to bring the case to a conclusion at that

hearing, the court may direct resumption of the preparation and issue instructions necessary therefor.

Section 13

At a continued main hearing the case shall proceed from the point it had reached at the conclusion of the previous hearing.

At a new main hearing the proceedings in the case shall be held in their entirety. If a means of proof was taken at an earlier hearing, that means shall be re-taken if the court finds such re-taking to be of importance in the case and no impediment thereto exists. When a means of evidence is not re-taken, it shall be brought forward from the record or in other suitable way. (SFS 1987:747)

Section 14

After the conclusion of the main hearing, if the court finds it necessary to supplement the inquiry prior to the determination of the case, a continued or new main hearing may be held pursuant to the rules in this chapter. If the supplementing is of simple nature, however, after consulting the parties, the court, in lieu of it, may decide that the inquiry shall be obtained in some other appropriate way. (SFS 1987:747)

Chapter 44

CONSEQUENCES OF PARTY ABSENCE AND THE LIKE *

Section 1

If both parties fail to appear at a session for oral preparation, the case shall be removed from the court's list.

Section 2

If the matter at issue is amenable to out of court settlement, and if a party fails to appear at a session for oral preparation and he was directed to appear with the consequence that otherwise a default judgment might be entered against him, on request of the appearing party, such a judgment shall be entered. If a default judgment is not requested, the case shall be removed from the court's list.

However, if the non-appearing party is the defendant, on request of the plaintiff, the case may be continued for oral preparation on a subsequent date. If the defendant fails to appear at the subsequent conference, the rules in the first paragraph shall apply.

Section 3

If the matter at issue is not amenable to out of court settlement, and if the plaintiff fails to appear at a session for oral preparation and he was directed to appear with the consequence that otherwise his action would lapse, the case shall be removed from the court's list.

If the defendant fails to appear and he was directed to appear under penalty of fine, instead of directing him to appear under penalty of a new default -fine, the court may order that he be brought before it in custody either immediately or on a later date.

* Title amended by SFS 1987:747.

Section 4

As to the parties' non-appearance at main hearing sessions, the provisions in Section 1, Section 2, paragraph 1, and Section 3, shall apply.

When a party has been directed to appear with the consequence that otherwise a default judgment may be entered against him or the case may be adjudicated notwithstanding his non-appearance, and if no default judgment is entered, the court, on request of the appearing party, may proceed with the hearing. When such a request is not presented, the case shall be removed from the court’s list.

Section 5

If the matter is amenable to out of court settlement, and if a party directed to appear in person under penalty of fine appears by attorney only, the court, instead of directing him to appear in person under penalty of a new default fine, may order that he be brought before it into custody either immediately or on a later date.

Section 6

However, if a party has been directed under penalty of fine, or if a party shall be brought before the court in custody but it cannot be carried out notwithstanding the fact that the party appeared by attorney only or failed to appear, the preparation may be concluded or the case may be determined.

Section 7

If one party or both fail to appear at a special session for the disposal of a procedural issue the issue may, nonetheless, be determined.

Section 7a

If the defendant fails to obey a directive to submit a written answer with the consequence that otherwise a default judgment can be entered against him, such a judgment may be entered unless the plaintiff has opposed this.

The defendant shall be considered to have followed a directive to submit an answer if he has made manifest his position to the plaintiff's claim and has alleged reasons which can be of importance at the trial of the matter at issue. (SFS 1974:747)

Section 7b

If the plaintiff has based his claim on a written debt note or on a written promise concerning a performance other than payment, a default judgment may be entered even if, after the directive to submit a written answer with the consequence that otherwise a default judgment may be entered, the defendant has performed what is prescribed in Section 7a, paragraph 2, but has not been able to show reasonable cause for his opposition.

A default judgment under the first paragraph may not be pronounced:
1. if the plaintiff's claim is based upon a mutually binding contract and the defendant makes an objection concerning the compensation,
2. if a default judgment has been previously issued in the matter at issue, or
3. the plaintiff opposes this. (SFS 1996:1024)

Section 8

When a judgment by default is entered against the plaintiff his claim shall be dismissed on the merits unless the claim has been consented to by the defendant or it is otherwise evident that the claim is well founded.

A judgment by default against the defendant shall be based upon the plaintiff's statement of the circumstances in the case to the extent that the defendant has received notice of the statement and the statement is not contrary to matters of common knowledge. To the extent that the statement does not comprise legal reasons for the plaintiff’s case or it is otherwise clearly without foundation, the claim shall be dismissed on the merits.

A judgment by default shall be marked as such.

Section 9

A party against whom a judgment by default has been entered may apply for reopening of the case at the court in which the action was instituted within one month from the date on which the judgment was served upon him. If reopening is not applied for, the judgment may not be attacked to the extent that it is against the party in default.
An application for reopening shall be submitted in writing. If the default judgment was entered during the preparation, the application ought to contain everything necessary to complete the preparation by the applicant.

Section 10

When reopening a case, the case, to the extent reopening has been applied for, shall be resumed at the stage it had reached prior to the point where the issue of default judgment was dealt with.

A party against whom a default judgment has been entered twice has forfeited his right to of the case. (SFS 1996:1024)

II. PROCEEDINGS IN CRIMINAL CASES

Chapter 45

INSTITUTION OF PUBLIC PROSECUTION

Section 1

A prosecutor who wants to institute a prosecution shall file with the court a written application for a summons against the person to be charged; however, to the extent found appropriate, the court may authorize the prosecutor to issue a summons.

A prosecution is deemed instituted when the summons application is filed with the court or, if the prosecutor has issued the summons, when it is served upon the defendant.

If a person is undergoing prosecution for an offence, no new prosecution for the same offence may be instituted against him.

Section 2

Prosecutions for procedural offences during the trial may be instituted without a summons.

If a person commits another offence before the court at a session, prosecution for the offence may be instituted without a summons if the court, considering the nature of the offence and other circumstances, finds it appropriate.

Any legal provision authorizing the institution of a prosecution without a summons in specified cases shall govern.

Section 3

If prosecutions have been instituted either against one person for multiple offences or against several persons alleged to have participated in the same offence, the prosecutions shall be consolidated into one trial unless the court finds separate proceedings more suitable. Prosecutions instituted against several persons for different offences may be jointly processed in one trial if it is of advantage for the inquiry.

Prosecutions may not be joined unless they have been instituted in the same court and that court is competent and the same rules of procedure apply to each.

If there is reason, prosecutions consolidated for trial may again be separated. (SFS 1956:587)

Section 4

In the application for a summons the prosecutor shall identify:
1. the defendant;
2. the aggrieved person if there is any;
3. the criminal act, specifying the time and place of its commission and the other circumstances required for its identification, and the applicable statutory Section or Sections;
4. the means of evidence he wants to invoke and what he intends to prove by each specified means; and
5. the circumstances giving the court competence, unless this is apparent from what is otherwise stated.

If the prosecutor, pursuant to Chapter 22, Section 2, wants to initiate simultaneously with the prosecution a an action for a private claim, he shall state in the application the claim and the circumstances upon which it is founded and also the evidence that is invoked and what he intends to prove by each item of evidence.

If the defendant is or has been under arrest, in detention, or taken into confinement on suspicion of a criminal act covered by the prosecution, the prosecutor shall specify this in the application. Further, the period of the deprivation of liberty shall be stated.

The application shall be signed by the prosecutor. (SFS 1973:45)

Section 5

A prosecution, once instituted, may not be amended. However, the prosecutor may extend the prosecution against the same defendant to encompass another act if the court, considering the inquiry and other circumstances, finds it appropriate.

After the institution of a prosecution, the prosecutor or the aggrieved person may initiate, without a summons, an action for a private claim based upon the offence if the court, considering the inquiry and other circumstances, finds it appropriate. The same rule shall apply when the claim has been transferred to another person.

It is not deemed an amendment of the prosecution if, with respect to the same act, the prosecutor narrows his action, asserts a statutory provision other than the one stated in the summons, or alleges a new circumstance in support of the prosecution. (SFS 1969:588)

Section 6

When the prosecutor wants to institute a prosecution for an offence in accordance with Section 2, paragraph 1 or 2, or to extend the prosecution under Section 5, or when the prosecutor, the aggrieved person, or the person to whom the aggrieved person's claim was transferred, wants to institute an action for a private claim under Section 5, it may be done either orally before the court or in writing. The defendant shall be notified of the charge or claim. Such action is deemed instituted when presented to the court. (SFS 1969:588)

Section 7

If a preliminary investigation was held in the case, the prosecutor shall, when the prosecution is instituted or as soon as possible thereafter, submit to the court a copy of the record or notes of the preliminary investigation together with the written documents and objects that the prosecutor intends to invoke as evidence. Such things that do not concern the prosecution should not, however, be submitted. (SFS 1987:747)

Section 8

The summons application shall be dismissed if the court finds it plain that the person initiating the prosecution is not authorized to prosecute for the offence or that the case, by reason of any other procedural impediment, cannot be heard and determined.

Section 9

If the application is not dismissed, the court shall issue a summons calling upon the defendant to answer the prosecution.

The summons together with the summons application and the documents annexed thereto shall be served upon the defendant. Information concerning the aggrieved person’s or witness´s age, occupation and residential address, which has no bearing on the prosecution, shall not be indicated by the documents served.
(SFS 1994:420)

Section 10

In the summons, the court shall also direct the defendant to specify, either orally or in writing, the evidence he invokes and what he intends to prove by each item of evidence. This does not apply, however, when it can be assumed from the confession of the

defendant or other circumstances that no information on evidence is required.

The written evidence should be submitted simultaneously with the submission of the specification of evidence.

If required in order that the main hearing shall be completed in an expeditious way, the court may direct the defendant to explain in writing his position to the prosecution and the basis for it. (1987:747)

Section 11

For the purpose of making possible a full trial of the case at the main hearing in an uninterrupted sequence, the court may direct the prosecutor to complete the preliminary investigation or, if no preliminary investigation has been held, to conduct one.

Section 12

If required in order to assure that all evidence shall be available at the main hearing in an uninterrupted sequence, orders shall be issued without delay for obtaining expert opinions, production of written evidence, or objects for viewing or inspection, or for taking any other preparatory measure.

If evidence is to be taken outside the main hearing, orders thereon shall be issued without delay.

If a party desires that a measure stated above be taken, he shall apply to the court therefor as soon as possible.

Section 13

If there is special reason, the court may hold a preparatory session with the parties and the other persons who are affected. As to notices to the parties Section 15 shall be applied.

If any of those called to the session fails to appear the session may nevertheless be held provided that the session furthers the aim of preparation. If the person who fails to appear was directed under penalty of fine, the court may direct him under penalty of a new default -fine or that he be brought into custody before it.

The provisions as to sessions by telephone under Chapter 42, Section 10, shall also apply to sessions pursuant to this section. (SFS 1987:747)

Section 14

The court shall, as soon as possible, set a date for the main hearing. A main hearing may be scheduled for the disposal of a procedural issue or a part of the matter at issue that may be decided separately although in other respects the case is not ready for main hearing.

If the defendant is under arrest or in detention, the main hearing shall be held within one week from the date of the institution of the prosecution unless, as a result of a measure stated in Section 11 or 12 or another circumstance, a longer postponement is necessary. If the defendant was detained after the institution of prosecution, the time within shall be computed from the date of his detention.

If a travel prohibition has been imposed upon the defendant, the main hearing shall be held within one month from the date of the institution of the prosecution unless, as a result of a measure stated in Sections 11 and 12 or another circumstance, a longer post-ponement is necessary. If the order of travel prohibition was issued

after the institution of the prosecution, the time shall be computed from the date of the service of the order. (SFS 1981:1294)

Section 15

The prosecutor shall be given notice to appear at the main hearing. The aggrieved person shall also be given notice to appear if he joins in the prosecution, or otherwise is a party to the proceedings together with the prosecutor or shall be heard on account of the prosecution's action. If the aggrieved person shall appear in person, the court shall direct him to do so under penalty of fine.

The defendant shall be given notice to appear at the main hearing in the summons or by means of a separate notice. If he shall appear in person or otherwise to be present, the court shall direct him to do so under penalty of fine. If there is reason to believe that the defendant would not obey such a directive, the court may order that he be brought before it into custody at the main hearing. When pursuant to Chapter 46, Section 15, the case can be determined notwithstanding the fact that the defendant has appeared only by attorney or has failed to appear, he shall be reminded thereon in the notice. As to the attendance of an arrested or detained defendant, the court shall issue directives to provide for his presence.

As to the notices to witnesses and experts to appear, the provisions in Chapters 36 and 40 shall apply. (SFS 1982:283)

Section 16

A summons issued by a prosecutor shall contain that which is provided in Section 4 concerning applications for summons and shall be signed by the prosecutor.

In the summons the prosecutor shall also direct the defendant, within a specified time set by the prosecutor, to specify to the court, either orally or in writing, the evidence he wishes to adduce at the

main hearing and what he seeks to prove with each particular items of evidence. However, this shall not apply when the prosecutor considers it clear from the confession of the defendant or another circumstance that no evidence will be offered by the defendant. If appropriate, the prosecutor may in the summons give the defendant notice to appear at a main hearing.

When a prosecutor schedules a case for main hearing, he is bound to observe the instructions concerning the time for main hearings issued by the court; the prosecutor may also issue the notices to appear and directives referred to in Section 15.

The summons together with the documents annexed thereto shall be served upon the defendant. Information concerning the aggrieved person's or a witness´s age, occupation and residential address, which has no bearing on the prosecution, shall not be indicated by the documents served. Immediately after service, the summons and proof of its service shall be given to the court. (SFS 1994:420)

Section 17

If a party wants to invoke at the main hearing evidence that he did not offer previously, he shall immediately notify the court and the opposing party of the means and what he intends to prove by it.

Section 18

Repealed by SFS 1976:567.

Chapter 46

MAIN HEARING IN CASES WITH PUBLIC PROSECUTION

Section 1

When the case is called, the court shall ascertain whether there is any impediment to a final disposal of the case.

Section 2

The main hearing shall be cancelled and scheduled for a new date:
1. if the prosecutor is not present;
2. if the defendant has failed to appear or, if directed to appear in person, appears only by attorney and the situation is not such that the case may be tried nevertheless;
3. if, pursuant to statutory prescription, the defendant must have defence counsel and such a counsel is not present or immediately appointed;
4. if an aggrieved person, witness, or expert who should be examined fails to appear;
5. if a party wishes to allege a new important reason or to present a new evidence and it is found that a postponement is required in order to provide the opposing party with an opportunity to meet the new reason or evidence; or
6. if there is otherwise an impediment to final disposal of the action.

If it can be assumed that the impediment will be removed prior to the conclusion of the proceedings, the main hearing may be held.

Section 3

Although against the main hearing there is an impediment of the kind referred to in Section 2, paragraph 1, clauses 4 through 6, the hearing may be commenced if it can be assumed that, pursuant to

Section 11, paragraph 2, the hearing can continue later without a new hearing needing to be held and, considering the nature of the case, a segmentation of the hearing is not inexpedient.

If the main hearing is cancelled, however, the court may take oral evidence if it is permissible under the provisions concerning taking of evidence outside main hearing and the person to be examined is present.

If it is of extraordinary importance for the inquiry, other proceedings may also take place in conjunction with the taking of evidence pursuant to paragraph 2.

As to evidence taken pursuant to paragraph 2 or 3, the provisions concerning taking of evidence outside the main hearing shall apply to the extent relevant.
(SFS 1987:747)

Section 4

The court is responsible for the orderly and systematic progress of the proceedings. The court may direct that separate issues or parts of the case shall be taken up individually or other departures shall be taken from the sequence prescribed by Sections 6, 9 and 10.

The court shall also make certain that the case is investigated according to what its nature requires and that irrelevant matters are not presented. Through questions and observations, the court shall attempt to remedy any unclear and incomplete statement made.
(SFS 1987:747)

Section 5

The hearing shall be oral. The parties may submit or read out written submissions and other written statements only if the court

finds that it would facilitate the understanding of a statement or otherwise be of advantage to the proceedings. (SFS 1987:747)

Section 6

At the main hearing the prosecutor shall state the charges. The defendant shall be requested to state briefly his position and the basis for it. Thereafter, the prosecutor shall introduce his action. The aggrieved person and the defendant shall, to the extent required, be furnished with an opportunity each to present his action.

Hereafter the aggrieved person and the defendant shall be examined and other evidence be presented. The examination of the aggrieved person and the defendant shall occur prior to the taking evidence of witnesses concerning the circumstance that the examination concerns.

When a main hearing is held despite the absence of the aggrieved person or the defendant, the court shall see to it that the absentee's statement shall be presented from the documents to the extent needed. (SFS 1987:747)

Section 7

The court may direct that written evidence shall be deemed to be taken at the main hearing without being read out at the hearing. However, that may occur only if the parties consent thereto, the judges of the court have taken part of the documents, and it is not improper with regard to the circumstances.

At main hearings, evidence may be taken by telephone if, in consideration of the kind of evidence and other circumstances, it is appropriate, or if the taking of evidence pursuant to the ordinary rules would occasion costs and inconvenience not being in a reasonable proportion to the importance of taking the evidence in the ordinary way. As to taking evidence by telephone the rules in

this Code concerning notices, directives, and consequences of absence shall not apply. (SFS 1987:7–47)

Section 8

If the aggrieved person is not a party to the proceedings and it is not improper in view of the circumstances, the court may direct that the aggrieved person shall not be present at the main hearing prior to his examination. (SFS 1987:747)

Section 9

If the offence is such that a sanction other than fine can be expected or special reason otherwise warrants it, a presentation shall be made concerning the punishment to which the defendant has been sentenced previously and regarding his living conditions and the individual circumstances that can be assumed to be of importance.

Section 10

After the evidence has been presented, the parties may state what they regard as necessary for the summation of their actions.

Section 11

Apart from recesses authorized in Chapter 1, Section 9, the main hearing shall continue, as far as possible, without interruption until the case is ready for determination. A main hearing once commenced may not be postponed only, if the hearing was held pursuant to Section 3, paragraph 1, if after the commencement of the proceedings, a new important ground is interposed or knowledge of new significant evidence is obtained, or the court otherwise considers postponement necessary. When the main hearing is postponed, it shall be resumed as soon as possible. When the defendant is in detention, the hearing shall be resumed within one week from the day on which the prior session terminated or, if he

was detained after the termination of that session, within one week from the day on which his detention commenced unless, a longer adjournment is required by reason of special circumstances.

If the case is postponed one or more times and the total postponement time does not exceed fifteen days, the main hearing may be continued. Otherwise, a new main hearing shall be held unless, considering the nature of the case, there are extraordinary reasons for holding a continued main hearing and the purpose with a continuous hearing is not neglected to a substantial extent.

Notwithstanding the provisions of the second paragraph a continued main hearing may be held to the extent that the delay has been caused by forensic psychiatric examination and it is not inappropriate having regard to the length of the delay and circumstances in the case.

The parties shall be notified to attend a postponed main hearing immediately or by special notice. As to the directives for parties, the provisions in Chapter 45, Section 15, shall apply. (SFS 1993:348)

Section 12

When a case is scheduled for a continued or a new main hearing, in order to make it possible to bring the case to a conclusion at that hearing the court may direct the measures deemed suitable. As to such measures, the provisions in Chapter 45, Sections 11 through 13, shall govern.

Section 13

At a continued main hearing the proceedings shall resume from the stage it had reached at the conclusion of the previous hearing.

At a new main hearing the proceedings in the case shall be held in their entirety. If a evidence was taken at an earlier hearing, the evidence shall be re-taken if the court finds such re-taking to be of importance in the action and no impediment thereto exists. When the evidence is not re-taken, it shall be brought forward from the record or in other suitable way. (SFS 1987:747)

Section 14

If an aggrieved person who shall be heard on account of the prosecutor's action fails to appear in person at a main hearing, in lieu of directing a new default fine, the court may order that he be brought before it into custody either immediately or on at later date.

Section 15

If the defendant fails to appear at a main hearing or appears only by counsel although directed to appear in person, the court either shall direct him to appear in person under penalty of a new default fine or shall order that he be brought before the court into custody immediately or on a later date.

If the matter can be satisfactorily investigated, the case may be adjudicated notwithstanding the fact that the defendant has appeared only by counsel on has failed to appear if:
1. there is no grounds to impose a criminal sanction other than fine, imprisonment for a maximum of three months, conditional sentence, or probation, or such sanctions jointly,
2. after service of the summons upon the defendant, he has fled or remains in hiding in such a manner that he cannot be brought to the main hearing, (1982:283), or

3. the defendant suffers from serious mental disturbance and his attendance as a result thereon is unnecessary.

In the situations stated in the second paragraph, the defendant may be sentenced to imprisonment only if he previously has failed to appear at a main hearing in the case or then appeared only by counsel. If, after the previous hearing, the prosecution has expanded to include another act, the defendant may be sentenced to imprisonment only if there was reason to sentence to imprisonment for the acts prosecuted prior to the expansion.

Orders under the Penal Code, Chapter 34, Section 1, paragraph 1, clause 1, shall have the same standing as the sanctions stated in the second paragraph, clause 1. However, this does not apply if, in connection with such an order, a conditional release from imprisonment shall be declared forfeited as to a term of imprisonment exceeding three months.

In the situations stated in paragraph 2, clause 2, the case may be adjudicated even if the defendant has not been served the notice of the hearing.

Procedural issues may be decided even if the defendant has failed to appear in court. (SFS 1991:1549)

Section 16

If a defence counsel is not present when the law requires that the defendant shall have one, the court shall appoint, if possible, a person present in the court and qualified to accept such an assignment to defend the defendant.

Section 17

If, after the closing of the main hearing, the court finds it necessary to complete the inquiry prior to the determination of the case, a continued or new main hearing may be held pursuant to the rules in this chapter. If the completion is of simple nature, however, the court, after consulting the parties, may decide, in lieu of it, the inquiry to be obtained in some other appropriate way. (SFS 1987:747)

Chapter 47

INSTITUTION OF PRIVATE PROSECUTION AND MAIN HEARING IN SUCH CASES

Section 1

An aggrieved person who wants to institute a prosecution shall file with the court a written application for a summons against the person to be charged. The prosecution shall be deemed instituted when the summons application is filed with the court.

If the defendant wants to initiate, in the same case, a prosecution against the aggrieved person or the prosecutor for malicious or unjustified prosecution, false accusation, or another false charge concerning an offence, he may do so without a summons either orally before the court or in writing. The one against whom a prosecution action is thus instituted shall be given notice of the prosecution. (SFS 1948:453)

Section 2

An application for a summons shall state:
1. the defendant,
2. the criminal act charged specifying the time and place of its commission, the other circumstances required for the criminal act's identification, and the applicable Section or Sections,
3. the private claim that the aggrieved person desires to assert and an exhaustive account of the circumstances on which the claim is founded,
4. the evidence invoked and what will be proved by each item of evidence, and
5. such circumstances as rendering the court competent unless this is obvious from what is otherwise stated.

If the aggrieved person has any wishes as to the disposal of the case, he should state them in the application.

The application shall be signed by the aggrieved person or his counsel in his own hand.

If the offence is such that the aggrieved person may not initiate a prosecution unless the prosecutor has decided not to prosecute, a certificate that such a decision was issued shall be annexed to the application. The written evidence invoked should also be annexed to the application. (SFS 1987:747)

Section 3

If the summons application fails to comply with the regulations in Section 2 or is otherwise incomplete, or if the certificate referred to in Section 2, paragraph 4, is not produced, the court shall direct the aggrieved person to cure the defect. The same rule applies if the prescribed application fee has not been paid. (SFS 1989:656)

Section 4

If the aggrieved person fails to obey a directive pursuant to Section 3, the application shall be dismissed if it is so incomplete that it cannot be used, without essential inconvenience, as basis for a trial regarding the criminal responsibility. The same applies if such a certificate as stated in Section 2, paragraph 4, has not been submitted or if the failure refers to the payment of the application fee. (SFS 1989:656)

Section 5

If the application is not dismissed, the court shall issue a summons calling upon the defendant to answer the prosecution. If the aggrieved person's statement does not constitute legal reasons for the prosecution or otherwise it is evident that the prosecution is

groundless, however, the court may enter immediately a judgment in the case without having issued a summons.

If a summons is issued, the summons together with the summons application and the documents annexed thereto, shall be served upon the defendant. (SFS 1984:131)

Section 6

If a summons is issued, preparation of the case shall take place.

The object of the preparation is to make clear:
1. the defendant's position as to the prosecution and the basis for it,
2. the evidence that shall be brought forward and what shall be proved by each means, and
3. whether additional inquiry or other measures are required prior to the adjudication of the action.

The court shall proceed with the preparation in the aim of a speedy adjudication of the case. As soon as found appropriate to occur, the court shall hear the parties concerning the disposal of the case. (SFS 1987:747)

Section 7

During the preparation, the defendant should answer and state whether he admits or denies the act and present his position as to the circumstances on which the prosecution is based. He should also state the circumstances that he wants to rely on.

Thereafter, each party in turn should state all additional circumstances that he wants to claim and respond to the circumstances alleged by the opposing party. In addition, each party should specify, to the extent not previously stated, the evidence upon which he wants to rely and what he intends to prove by each

item of evidence. Written evidence not already presented shall be submitted immediately.

The court may order separate preparation of different issues or parts of the case. (SFS 1987:747)

Section 8

The preparation is effected at sessions, by exchange of writings, or by other proceedings. If appropriate, different forms of preparation may be combined.

An answer pursuant to Section 7, paragraph 1, shall be in writing unless, considering the nature of the case, it is more appropriate to deliver the answer at a session.

When a written answer has been filed with the court, a session shall be held as soon as possible unless, considering the nature of the case, a continued exchange of writing is more appropriate.

When a session is held, the preparation shall be finalized at it, if possible. If this cannot be done, the preparation shall continue by exchange of writings or at a new session. (SFS 1987:747)

Section 9

If the preparation shall occur at a session and the defendant is in detention, the session shall be held within one week from the day of his detention unless, owing to special circumstances, a longer postponement is required. If the defendant is under order of travel prohibition, the session shall be held within one month from the date of the service of the order upon the defendant.

If the defendant is in detention and an additional session shall be held, this session shall be held within one week from the date of the termination of the previous session or, if he was detained thereafter,

from the day of his detention unless, owing to special circumstances, a longer postponement is required. (SFS 1987:747)

Section 10

A session may be held by telephone if it is appropriate considering the purpose of the session and other circumstances, or if a session in court should occasion costs and inconvenience not being in a reasonable proportion to the importance of such a session. As to sessions held by telephone the Code's provisions of notices, directives and also consequences of absence do not apply. (SFS 1987:747)

Section 11

At a session, the parties may submit or read out written submissions or other written statements only if the court finds that it would facilitate the understanding of a statement or otherwise be of advantage to the proceedings. (SFS 1987:747)

Section 12

The aggrieved person shall be directed to appear at a session with the consequence that otherwise he forfeits his right to prosecute the offence. If the aggrieved person is to appear in person, the court shall direct him to do so under penalty of fine. The defendant shall be directed under penalty of fine. As to appearances of a defendant who is in detention, the court shall issue directives to provide for his presence.

If the session only concerns the disposal of procedural issues, the aggrieved person shall be directed, in lieu of the directives pursuant to paragraph 1, to appear under penalty of fine. (SFS 1987:747)

Section 13

If both parties fail to appear at a session for oral preparation, the case shall be removed from the court's list.

Section 14

If the aggrieved person fails to appear at a session for oral preparation and he was directed to appear with the consequence that otherwise he would forfeit his right to prosecute the offence, upon request of the defendant, a declaration of such forfeiture shall be pronounced; when a declaration is not requested, the case shall be removed from the court's list.

If the defendant fails to appear and he was directed to appear under penalty of fine, in lieu of directing him to appear under the penalty of a new default fine, the court may order that he be brought before it into custody either immediately or at a later date.

Section 15

If the aggrieved person or the defendant appears by attorney although directed to appear in person under penalty of fine, in lieu of directing him to appear under the penalty of a new default fine, the court may order that he be brought before it in custody either immediately or at a later date.

Section 16

If a party has been directed to appear under penalty of fine, or if he is to be brought before the court in custody but it is found that the order for bringing him to court cannot be carried out, the preparation may nonetheless be concluded notwithstanding the fact that the party has appeared only by counsel or has failed to appear.

Section 17

During the preparation, if one party or both fail to appear at a special session for the disposal of a procedural issue, the issue may nevertheless be determined.

Section 18

When the court pursuant to Section 14 has declared that the aggrieved person has forfeited his right to prosecute for the offence, the aggrieved person may apply to the court for reinstatement of the case.

The application for reinstatement shall be submitted in writing within one month from the date on which the order was pronounced. If the aggrieved person again fails to appear, his right to reinstatement of the case shall lapse.

Section 19

If it is of advantage for the inquiry of the case, the court should deliver, prior to a session or a continued exchange of writings, the parties a specification of the issues that should be dealt with at the continued proceedings.

Prior to a session, the parties shall prepare the case in such a manner so that, if possible, no more preparatory sessions are necessary. (SFS 1987:747)

Section 20

When it is of advantage for the disposal of the case, the court should make, prior to the termination of the preparation, a written summary of the parties' positions such as those are understood by the court. The parties shall be afforded an opportunity to express their opinions of the summary. (SFS 1987:747)

Section 21

During the preparation, an order dismissing the case may be issued.

Section 22

As soon as the preparation has been concluded, the court shall fix a date for the main hearing after the parties, if possible, have been afforded an opportunity to express their views. A main hearing may be scheduled for the disposal of a procedural issue or a part of the case that may be decided separately although in other respects the preparation of the case has not been concluded.

If the defendant is in detention, the main hearing shall be held within one week from the day on which the preparation was concluded or, when he was detained thereafter, within one week from the day of his detention.

If travel prohibition has been imposed upon the defendant, the main hearing shall be held within one month from the day on which the preparation was concluded. When the order of the travel prohibition has been issued thereafter, the time shall be computed from the day when the order was served upon him. (SFS 1987:747)

Section 23

As to notices to the main hearings the provisions in Section 12 shall apply.

If there is reason to believe that the defendant would not obey a directive to appear in person under penalty of fine, the court may order that he be brought before it at the main hearing into custody. (SFS 1987:747)

Section 24

As to private prosecutions in other respects, the provisions in Chapter 45, Section 1, paragraph 3, and Sections 2, 3, 5, 6, 8, 12 and 17, shall correspondingly apply.

Concerning main hearings in private prosecutions, the provisions in Chapter 46 shall correspondingly apply; however, in such cases, the following deviations apply:

1. As to notices to appear at postponed main hearings and directives for the parties, the provisions in Section 23 of this chapter shall govern.
2. If both parties fail to appear at a main hearing, the case shall be removed from the court's list. As to the consequences of the non-appearance of an aggrieved person or failure to appear in person and also the reinstatement of cases, the provisions in Sections 14 through 16 and 18 in this respect shall correspondingly apply. If both parties, or one of them, fail to appear at a special session for the disposal of a procedural issue, the issue may nonetheless be determined.
3. When a case is fixed for a continued or a new main hearing, in lieu of a measure referred to in Chapter 46, Section 12, the court may order renewed preparation and issue directives necessary preparation.

Chapter 48

ORDERS FOR SUMMARY PENALTY AND ORDERS FOR BREACH-OF-REGULATIONS FINE

General provisions

Section 1

Issues of liability for offences subject to public prosecution may, under the provisions stated in this chapter, be undertaken by public prosecutors by means of summary penalty orders and by police officers by means of summary orders for breach-of-regulations fine. To the extent prescribed in Section 3, summary orders are used in lieu of prosecutions.

Further regulations as to the application of this chapter are issued by the government or by the authority designated by the government. (SFS 1974:573)

Section 2

An order for summary penalty pursuant to this chapter means that the suspect is, subject to his approval immediately or within a specified period, ordered to pay a fine according to what the prosecutor considers that the offence deserves. Subject to the preconditions stated in Section 4, second paragraph, a summary penalty may even concern a conditional sentence or such a sanction coupled with a fine. Section 5 a indicates that a summary penalty order may also include a private claim relating to an obligation to pay.

On order for a breach-of-regulations fine pursuant to this chapter means that the suspect is, subject to his approval, immediately or within a specified period, ordered to pay a fine as laid down in Section 14.

When the offence calls for forfeiture of property or any similar special legal effects or a special legal effect in the form of a fee under the Act on the Fund for the Victims of Crime (1994:419), this shall also be submitted to the suspect for approval. This also applies to the costs of blood tests and blood analysis relating to the suspect and undertaken for the investigation of the offence. As regards such costs, the provisions concerning special legal effects apply. (SFS 1996:1624)

Section 3

When an order pursuant to this chapter has been submitted for approval within a specified period, the issue of criminal liability for the offence may not be taken up again before the expiration of the period.

Orders approved shall have the same effect as a judgment that has entered into final force.

Order for summary penalties

Section 4

Fines may be ordered by summary penalty orders concerning offences in respect of which fines are included in the range of penalties, though not standardized fines. There are special provisions concerning summary penalty orders for offences committed by someone under eighteen years. The provisions of Chapter 34, Section 1, first paragraph 2 of the Penal Code apply to orders to pay a fine.

Conditional sentences or such a sanction coupled with a fine may be ordered by means of a summary penalty order in cases where it is obvious that the court would order such a sanction. However, this does not apply to offences committed by a person under 18 years if

there is reason to combine the conditional sentence with a community service order. (SFS 1998:605)

Section 5

Orders for summary penalty may not be issued,

if the preconditions for public prosecution do not exist,

if the order does not include all offences committed by the suspect that are under consideration according to the knowledge of the prosecutor,

if the aggrieved person has declared that he intends to institute an action for a private claim in consequence of the offence relating to other than an obligation to pay,

if an action for a corporate fine is brought in consequence of the offence. (SFS 1994:1412)

Section 5 a

If the aggrieved person has presented a private claim relating to an obligation to pay in consequence of the offence and the circumstances are such that the prosecutor is by virtue of Chapter 22, Section 2, first paragraph, liable to prepare and present the aggrieved person’s action, the private claim shall also be presented to the suspect for approval. (SFS 1994:1412)

Section 6

Orders for summary penalties shall be made in writing and shall be signed by the prosecutor.

The order shall identify:
1. the suspect;

2. the offence specifying the time and place of its commission and the other circumstances required for its identification;
3. the applicable statutory provision or provisions; and
4. the punishment and special legal effects submitted to the suspect for approval,
5. the private claim submitted to the suspect with information concerning the aggrieved person and the circumstances on which the claim is based.
(SFS 1994:1412)

Section 7

If an order for summary penalty is submitted to the suspect for approval within a specified period, by annotation in the order or by any other way, the suspect shall
be informed of the manner, and the period fixed for the approval,
be informed that, if the order is not approved, prosecution may be instituted after the expiration of the period specified.

Section 8

The order for summary penalty shall be handed over or be sent to the suspect.

The government may prescribe that, in lieu of an order, a written statement of the order's contents and the information referred to in Section 7 may be handed over, or be sent, to the suspect. (SFS 1974:573)

Section 9

The suspect's approval of an order of summary penalty is made by his signing a declaration that he admits the commission of the act and accepts the sanction and the special legal effects included in the order and by delivering the declaration to the proper authority.

Further provisions as to who shall receive such declarations are issued by the government.

An approval signed on a document other than the order is valid only it is manifestly clear which order is referred to. (SFS 1994:1412)

Section 10

On behalf of the suspect his attorney may approve in writing of an order of summary penalty, which does not relate to a conditional sentence, provided that a power of attorney is filed with the prosecutor in the original. The power of attorney, in addition to what is prescribed in Chapter 12, shall contain

1. a declaration that the attorney is authorized to approve a summary penalty order on behalf of the suspect,
2. a statement of the offence that the approval may refer to with specification of the kind of criminal act and the time and place of its commitment,
3. a statement of the maximum sanction of fine, the special legal measure and the private claim that the suspect is willing to accept,

When such a power of attorney has been filed with the prosecutor, the attorney may receive documents in the matter on behalf of the suspect. (SFS 1996:1462)

Section 11

If an order for a summary penalty concerns nothing other than a fine or fines and fees under the Fund for Victims of Crime Act (1994:419) and, without any previous written approval, the whole of the amount is paid to the authority assigned by the government, the payment is considered as approval if it does not appear that the suspect has not intended to approve the order. (SFS 1994:420)

Section 12

An approval given after the issuance of a summons or summons application by the prosecutor has no effect.

Section 12a

If the prosecutor finds that an order for summary penalty to which approval has been given contains a manifest inaccuracy owing to clerical error, incorrect calculation, or similar oversight by the prosecutor or any other person and, after the person who approved the order has been afforded an opportunity to express his opinion, the prosecutor shall decide that the order be corrected.

Corrections may not be made if the person who has approved the order objects thereto.

A correction may not entail the increasing of the penalty. (SFS 1990:443)

Order for breach-of-regulations fine

Section 13

Orders for breach-of-regulations fine may be issued concerning offences that are neither punishable by any other penalty than fines assessed directly in a set amount nor standardized fines, and for which breach-of-regulations fines are decided in the manner prescribed by Section 14.

If a special conditions are prescribed for public prosecution, the provisions of orders for breach-of-regulations fine are not applicable.

Section 14

The government may issue regulations concerning the maximum amount to which a breach-of-regulations fine may be fixed and other limitations for the application of orders for breach-of-regulations fine.
In consultation with the National Police Board, the Prosecutor-General shall determine the offences as to which breach-of-regulations fine shall be applicable.

The Prosecutor-General shall determine for different offences the amount that shall be fixed as the breach-of-regulations fine. In that context also the grounds for calculation of collective breach-of-regulations fine for more than one offence shall be prescribed. For special reason, the Prosecutor-General may commission the regional prosecutors to determine the amount of breach-of-regulations fine for specified offences. (SFS 1974:573)

Section 15

Orders for breach-of-regulations fine may not be issued,
if the suspect denies the act,
if the order does not include all offences committed by the suspect that are in consideration according to the knowledge of the police officer, or
if there is reason to assume that an action for civil claim will be commenced.

In other situations, if it may be assumed to be required that a prosecutor examines the issue of summary penalty or prosecution for the offence, an order should not be issued. (SFS 1986:649)

Section 16

Orders for breach-of-regulations fine shall be made in writing and shall be signed by the police officer.

The order should be issued in the presence of the suspect, and he shall have an opportunity to approve the order immediately.

If the order is issued in the absence of the suspect, or if a suspect being present at the issuance of the order needs time for reflection, the police officer may hand the suspect the order for later decision as to the issue of approval.

Section 17

The provisions in Section 6, paragraph 2, clauses 1, 2 and 4, and in Sections 7, 9, 11 and 12 a, also apply to orders for breach-of-regulations fine. What is stated in Section 12a concerning a prosecutor, shall apply instead to a police officer. (SFS 1982:1123)

Section 18

If, immediately in connection with the issuance of, and approval of, an order of a breach-of-regulations fine, the police officer finds that the order includes an obvious inaccuracy and that inaccuracy concerns other than that the amount of fine is too low, regardless of the provision in Section 3, paragraph 2, the police officer may give the suspect an opportunity to strike out his approval if it can be done immediately. If this is done, the order shall be cancelled. After that, a new order may be issued.

Section 19

An approval of an order for breach-of-regulations fine given after the issuance of a summons or a summons application by the prosecutor has no effect. When the approval is given after the issuance of an order of summary penalty, nor does the approval have any effect unless the prosecutor having issued the order of summary penalty declares the approval to be valid and cancels the order for summary penalty.

Section 20

The government may prescribe that orders for breach-of-regulations fine may also be issued by prosecutors and customs officers. The provisions in this chapter referring to police officers shall correspondingly apply to a person thus authorized. (SFS 1974:573)

PART FIVE

PROCEEDINGS IN THE COURT OF APPEAL

Chapter 49

RIGHT TO APPEAL AGAINST JUDGMENTS AND DECISIONS OF DISTRICT COURTS

Section 1

A judgment of the district court may be appealed against unless otherwise provided.

When a district court enters a judgment in the situations stated in Chapter 17, Section 5, paragraph 2, the court shall decide, in view of the circumstances, whether an appeal from the judgment shall be taken separately or only in conjunction with an appeal from the final determination by the court.

A party against whom a default judgment was entered may not appeal from the judgment. Provisions as to his right to a reopening of the case following the entry of such a judgment are found in Chapter 44, Section 9. (SFS 1994:1034)

Section 2

If the parties have agreed in writing not to appeal from a judgment to be entered either in an actual dispute between them or in any future dispute that can be derived from a specified legal relationship, the agreement shall be given effect if the matter at issue is such that an out of court settlement on that matter is permitted. However, an agreement made before the outset of the dispute is not effective in actions stated in Chapter 1, Section 3d, paragraph 1.

An undertaking not to appeal made by one party after the entry of the judgment is effective if the matter at issue is such that an out of court settlement on that matter is permitted. (SFS 1994:1034)

Section 3

The final decision of a district court may be appealed against, unless otherwise provided. However, if a party is entitled to apply for reinstatement of a case determined by a final decision, he may not appeal against the decision.

Other decisions may be appealed against only in conjunction with an appeal against judgment or final decision, unless otherwise provided. (SFS 1994:1034)

Section 4

If, in a decision rendered in the course of the proceedings, a district court has rejected an application for disqualification of a judge or has overruled an objection based upon an alleged procedural impediment or decided in relation to issues referred to in Chapter 1, Section 3 d, a party desiring to appeal from the decision shall first give a formal notice of intention to appeal. Such notice shall be given immediately if the order is pronounced at a session and otherwise within one week from his receipt of the order. If a party fails to do so, he is no longer entitled to appeal against the decision. If formal notice of intention to appeal is given by a party, the court shall decide, with reference to the circumstances, whether an appeal shall be taken against the decision separately or only in conjunction with an appeal from the judgment or final order. (SFS 1994:1034)

Section 5

A decision of a district court may be appealed separately if the district court in the decision:

1. dismissed an attorney, counsel, or defence counsel or rejecting a request thereon;
2. rejected an application by a third party to participate in proceedings as an intervenor or aggrieved person or determined an issue under Chapter 13, Section 7 concerning taking over a plaintiff's case;
3. directed a party or another person to produce a written evidence or to make an object accessible for view or inspection, or orders in which pursuant to the Freedom of Press Act, Chapter 3, Section 3, paragraph 2, items 4 or 5, or the Fundamental Law on the Freedom of Expression, Chapter 2, Section 3, paragraph 2, clause 4 or 5, a court has found it to be of extraordinary importance that an information referred to there is provided on examination of a witness or party under truth affirmation;
4. determined an issue concerning final imposition of a default fine or detention, responsibility for a procedural offence, or liability of a person to pay litigation costs,
5. determined an issue concerning compensation or advance out of public funds to an aggrieved person or a private party, or concerning compensation or advance to counsel, defence counsel, witness, expert, or another;
6. determined an issue in civil cases concerning provisional attachment or measure pursuant to Chapter 15 or orders in criminal cases concerning detention, permit for restrictions under Chapter 24, Section 5 a, other measures stated in Chapters 25 through 28 or taking into custody pursuant to the Penal Code, Chapter 28;
7. rejected a request for counsel or defence counsel, or appointing as such a person other than the one proposed by the party;
8. determined an issue concerning legal aid in accordance with the Legal Aid Act (1996:1619) in situations other than stated in items 5 or 7 above;
9. rejected a request that compensation to a witness invoked by a private party shall be paid out of public funds in accordance with Chapter 36, Section 24, second paragraph; or 10. determined an issue pursuant to Chapter 33 of the Penal Code concerning

deduction of periods for certain deprivations of liberty. (SFS 1998:601)

Section 6

Any person desiring to appeal against a decision of the kind referred to in Section 5, items 1, 2, 3, 7, 8, or 9 shall first give formal notice of intention to appeal, if the decision was rendered in the course of the trail. If the decision was pronounced at a session, notice must be given immediately or otherwise within one week from the date he received the decision. If a person fails to do so, he is no longer entitled to appeal against the decision.

Authorities which, pursuant to a statute or regulations under a statute, are competent to appeal against decisions stated in paragraph 1, shall give formal notice of intention to appeal at the latest one week of the day of the decision if the decision was pronounced at a hearing at which the authority was not represented. (SFS 1994:1034)

Section 7

Any party who is of the opinion that the processing of the case has been delayed without reason by a district court decision may appeal from that decision separately. (SFS 1994:1034)

Section 8

If a district court has declared the disqualification of a judge or appointed counsel for an aggrieved person, decided that costs for the attendance of a party shall be paid out of public funds or granted an application for payment out of public funds of compensation to a witness invoked by a private party, the decision may not be appealed against. (SFS 1996:1624)

Section 9

In order to respond to a demand in an appeal, the other party may request that a decision that may not be appealed separately shall nevertheless be considered. (1994:1034)

When separate appeal is not permitted from a court decision according to which a default fine or another sanction is ordered, a person who is dissatisfied with the decision may request that the validity of the order is reviewed in conjunction with his appeal against a decision where the order has been applied. (SFS 1994:1034)

Section 10

An appeal may be brought from a district court decision dismissing a formal notice of intention to appeal, an application for reopening or reinstatement, or an appeal-. Otherwise, a court of appeal may not review the question whether such notice was given, application made, or appeal taken in due time. (SFS 1994:1034)

Section 11

If a party, pursuant to Section 4, has given formal notice of intention to appeal concerning a district court decision rendered in the course of the proceedings and has been directed to bring a separate appeal from the decision, the case shall be stayed pending the outcome of the appeal. However, the court may determine that the preparation of the case shall continue.

When a formal notice of intention to appeal pursuant to Section 6 is given, the court may direct, if there are special reasons, a stay of the case pending the outcome of the appeal.

In situations other than those referred to above, no postponement may be effected pending appeal from a district court decision rendered in the course of the proceedings. (1994:1034)

Section 12

In civil cases where out-of-court settlement of the matter is permitted, leave to appeal is required for the court of appeal to review the district court's judgment or decision in cases that have been dealt with by one single legally qualified judge under Chapter 1, Section 3 d, first paragraph and in other cases where the value stated in Chapter 1, Section 3 d, third paragraph obviously does not exceed the base amount under the National Insurance Act (1962:381).

Leave to appeal is not required if the appeal relates to:
1. a determination in a case which the district court must deal with in a special composition,
2. a decision affecting a person other than a party or intervenor,
3. a decision whereby the district court refused to disqualify a judge, or
4. a decision whereby a formal notice of intention to appeal or an application for reopening a case or an appeal was dismissed.
As to granting leave to appeal Chapter 54, Section 11, third paragraph shall apply. (SFS 1994:1034)

Section 13

In criminal cases leave to appeal is required for the court of appeal to review a district court judgment whereby the defendant was not sentenced to another sanction than a fine or was acquitted of liability for an offence in respect of which a more severe penalty than imprisonment for six months is not prescribed.

If the district court in a judgment in a criminal case also determined a private claim against the defendant, the provisions of Section 12 apply to that
part. If leave to appeal is not required under the first paragraph, or if leave to appeal is granted, and the appeal relates to the issue of whether the defendant shall be sentenced for the offence prosecuted, leave to appeal is not required for an appeal concerning a private claim in consequence of the act.

The first paragraph does not apply if the judgment is appealed against by the Prosecutor-General, the Chancellor of Justice or one of the Parliamentary Ombudsmen.

Requirements for leave to appeal under the first or second paragraph also relate to decisions which may only be appealed against in conjunction with an appeal against a judgment.

As regards leave to appeal that is granted, Chapter 54, Section 11, third paragraph shall apply. (SFS 1994:1034)

Section 14

Leave to appeal may be granted only if
1. it is of importance for the guidance of the application of law that a superior court considers the appeal,
2. reason exists for an amendment of the conclusion that the district court has rendered, or,
3. there are otherwise extraordinary reasons to entertain the appeal. (SFS 1994:1034)

Section 15

If leave to appeal is required in the court of appeal, the district court judgment or decision shall contain information concerning this and the content of Section 14.

Chapter 50

APPEALS AGAINST JUDGMENTS IN CIVIL CASES

Section 1

A party desiring to appeal from a district court judgment in a civil case shall do so in writing. The appeal paper shall be delivered to the district court. It shall have been received by the court within three weeks from the pronouncement of the judgment. (SFS 1994:1034)

Section 2

If one party has appealed from a district court judgment, the opposing party may appeal from the judgment within one week from the expiration of the time stated in Section 1. An appeal which has been made during such a period lapses if the first appeal is revoked or for other reasons lapses. (1994:1034)

Section 3

An appeal submitted too late shall be dismissed by the district court. However, the appeal shall not be dismissed if it has been received at the court of appeal within the appeal period. (SFS 1994:1034)

Section 4

The appeal shall contain information concerning:
1. the judgment appealed from;
2. the part of the judgment appealed against and the amendment of the judgment sought;
3. the grounds for the appeal and in which respects the appellant considers the reasoning the district court decision to be erroneous;

4. if leave to appeal is required, the circumstances relied upon in support of granting such a leave to appeal; and
5. the evidence adduced and shall be proved by each item of evidence.

If a circumstance or an item of evidence adduced in the court of appeal has not been presented previously, the appellant must, in cases where out-of-court settlement of the issue is permitted, explain the reasons for this. Written evidence not previously presented shall be submitted at the same time as the appeal. If the appellant wishes that the court of appeal rehear a witness, expert, or party or views the locus in quo again, he shall state this and indicate the reasons therefor. He shall also state whether he requests the opposing party to appear in person at the main hearing in the court of appeal. (SFS 1994:1034)

Section 5

If the appeal is not dismissed under Section 3, after expiration of the period stated in Section 2 the district court shall transmit to the court of appeal the appeal and other documents in the case.

If the appeal presents a claim requiring immediate consideration, such as a request for provisional attachment or an application for the revocation of a decision concerning such measure or a decision that a judgment may be enforced although it has not entered into final force, the transmission shall occur immediately. However, until the period stated in Section 2 has expired, a copy of the appeal shall be held accessible at the district court.
(SFS 1994:1034)

Section 6

If there is an impediment to considering an appeal other than that it has been submitted too late, the appeal may be dismissed immediately by the court of appeal. (SFS 1994:1034)

Section 7

If the appeal fails to comply with the regulations in Section 4 or is otherwise incomplete, the court of appeal shall direct the appellant to cure the defect.

If the appellant fails to comply with a directive pursuant to the first paragraph, the appeal shall be dismissed if the appeal is so incomplete that it cannot be the basis for the proceedings in the court of appeal without considerable disadvantage. (SFS 1994:1034)

Section 8

Unless otherwise provided by the second paragraph, the appeal shall be served upon the other party with a notice directing him to file a written response within a certain period.

If it is obvious that the appeal is unfounded, the court of appeal may immediately pronounce judgment in the case.

If the district court has rejected a request for provisional attachment or other measure pursuant to Chapter 15 or has revoked a decision on such a measure, the court of appeal may immediately grant the measure to remain effective until otherwise decided. If the district court has granted such a measure or has directed that enforcement of a judgment may occur although it has not entered into final force, the court of appeal may immediately decide that the district court decision may not be enforced until further decision. (SFS 1994:1034)

Section 9

Unless the appellant's claim is consented to, the other party’s response shall state the other party’s views on the basis of the

appeal presented by the appellant and state the circumstances he himself wishes to adduce.

The response shall contain information concerning the evidence upon which the party seeks to rely and what is sought to prove with each item of evidence. If a circumstance or an item of evidence adduced in the court of appeal has not previously been presented, a party in a case amenable to out-of-court settlement shall explain the reasons for this. Written evidence which has not been presented previously shall be delivered at the same time as the response. If the party wishes that the court of appeal rehear a witness, expert, or party or views the locus in quo again, he shall so state this and indicate the reasons therefor. He shall also state whether he requests the appellant to appear in person at the main hearing in the court of appeal. (SFS 1994:1034)

Section 10

The response shall be sent by the court of appeal to the appellant.

If necessary, the court of appeal may direct a further exchange of writings during the preparation. The court of appeal may also issue detailed regulations as to the exchange of writings and particularize the issues upon which the parties shall express themselves. However, a party may be directed to submit more than one writing only if there are special reasons.

During the preparation, sessions may be held if required to process the case efficiently.

The provisions in Chapter 42, Section 10, concerning sessions by telephone shall also apply to sessions pursuant to this section. (SFS 1994:1034)

Section 11

If a leave to appeal is required, the court of appeal shall decide, after the conclusion of the exchange of writings, whether such a leave to appeal shall be granted. If there are reasons, the issue may be dealt with without writings having been exchanged. (SFS 1994:1034)

Section 12

If the court of appeal considers it necessary, the court of appeal shall decide to obtain expert opinions, that written evidence is produced, that objects are made available for view or inspection, that evidence is taken outside the main hearing or that some other preparatory measure is taken.

A party who wishes that one of the measures referred to above be taken shall apply therefor to the court of appeal as soon as possible.

Chapter 42, section 8, second paragraph applies to issues concerning the duties of the court of appeal during the preparation. (SFS 1994:1034)

Section 13

The court of appeal may determine an appeal without a main hearing,
1. if the appellant's claim is consented to,
2. if it is manifest that the appeal is unfounded,
3. if both parties have requested that the case be disposed of on the merits without a main hearing or have declared that they have no objections thereto, or
4. if at the time of the pronouncement of the district court's judgment the value of the claim on appeal is clearly less than the base amount according to the National Insurance Act (1962:381), unless both parties have requested a main hearing.

In computing the value of the claim on appeal pursuant to the first paragraph, item 4, litigation costs and such interest as relates to the period after the institution of proceedings are not taken into account.

An appeal may always be determined without main hearing if it is manifest that such a hearing is unnecessary.

For a determination which does not bear upon the matter at issue a appeal a main hearing is not required. (SFS 1994:1034)

Section 14

Before a case is determined without a main hearing, the parties shall, unless it is clear that they have already concluded their actions, be afforded an opportunity to do so. (SFS 1994:1034)

Section 15

Unless the case is determined without a main hearing under Section 13, the court of appeal shall decide the time for such hearing. The time shall if possible be decided after consultation with the parties. To deal with procedural issues or such part of the matter at issue as may be determined separately a main hearing may be fixed even if the case is in other respects not ready for a main hearing. (1994:1034)

Section 16

The parties shall be given notice to appear at the main hearing.

The appellant shall be directed to appear on pain that otherwise the appeal lapses. If he is to appear in person, the court of appeal shall direct him to do so under penalty of default fine. If the other party is obliged to appear in person or his presence is otherwise found to be

of importance for the disposal or inquiry into the case, he shall be directed to appear in person under penalty of default fine. If a default fine is not directed, the other party shall be informed that the case may be determined notwithstanding his absence.

The court of appeal shall also decide which witnesses or experts shall be given notice to attend the main hearing. The parties shall be given notice of the decision. (SFS 1994:1034)

Section 17

As to main hearings in other respects in the court of appeal, the provisions in Chapter 1, Section 9, and in Chapter 43, Sections 1 through 6, Section 8, paragraphs 2 through 4 and Sections 10 through 14 shall apply. However, with respect to notices to appear at a postponed main hearing and directives for the parties, the provision in Section 16 of this chapter shall apply. (SFS 1994:1034)

Section 18

At the main hearing, the appealed judgment shall be reported to the extent necessary. The appellant shall state the part of the judgment appealed from and the change of the judgment sought. The other party shall indicate whether he consents to, or opposes, the application.

Subsequently, unless the court of appeal finds another procedure more suitable, the appellant shall present his position followed by the other party. Each party shall respond to the allegations of his adversary. If the hearing is held despite the absence of the appellant’s adversary his position, to the extent necessary, shall be presented by the court of appal from the documents. (SFS 1994:1034)

Section 19

After the parties have presented their action, the evidence shall be presented. When the main hearing is held despite absence of the appellant's adversary, the evidence presented by him in the district court shall be presented from the documents, to the extent that the evidence is of importance to the case in the court of appeal.

In the absence of special reasons to the contrary, evidence taken by the district court, which according to Chapter 35, Section 13 shall not be taken again, should be presented before evidence concerning the same circumstance is taken directly by the court of appeal. When there are several evidentiary items concerning the same circumstance, they should be presented in conjunction. (SFS 1994:1034)

Section 20

After the evidence has been presented, the parties shall be afforded an opportunity to conclude their actions. (SFS 1994:1034)

Section 21

If the appellant fails to appear at a session for main hearing the appeal shall lapse.

When an out of court settlement of the issue is not permitted, if the other party directed under penalty of a default fine fails to appear, the court of appeal, in lieu of directing him under the sanction of a new default fine, may direct that he be brought to court in custody either immediately or on a later date.

When an out of court settlement of the issue is not permitted, if a party directed to appear in person under penalty of a default fine appears by an attorney only, the court of appeal may direct him

under penalty of a new default fine, or order that he brought in custody to the court either immediately or on a later date.

However, if a party has been directed under penalty of default fine, or if a party is to be brought to the court in custody and he cannot be brought, the case may be determined even if the party has appeared by an attorney only or has failed to appear. (SFS 1994:1034)

Section 22

If the appeal has lapsed under Section 21, and the appellant had a legal excuse for non-appearance that he could not provide notification in time, on application by the appellant the court of appeal shall reinstate the case.

The application for reinstatement shall be made in writing within three weeks from the date when the decision was issued. If the appellant again fails to appear he is not entitled to have the case reinstated. (SFS 1994:1034)

Section 23

If at the main hearing in the district court concerning a particular circumstance examination of a witness, expert, or party under truth affirmation was taken or a view of the locus in quo was held and the confidence in that evidence is decisive also for the outcome in the court of appeal, that part of the district court's judgment may not be changed unless the court of appeal has retaken that evidence at the main hearing at the court of appeal. However, such an amendment may be made if extraordinary reasons justify the conclusion that the value of the evidence is another than that attached to the evidence by the district court. (SFS 1994:1034)

Section 24

If the judgment appealed against is a default judgment and the district court take up an application for reopening by the appellant's adversary, the case shall be remitted to the district court to be dealt with in conjunction with the reopening of the case. (SFS 1994:1034)

Section 25

An appeal may be withdrawn prior to the pronouncement of the judgment or final decision of the court of appeal.

An appellant may not amend his action to include a part of the district court judgment other than that specified in the appeal.

As to cases where the matter at issue is amenable to out of court settlement, in the court of appeal a party may invoke in support of his position a circumstances or item of evidence not previously presented, only if
1. he shows probable cause for not having been able to invoke the circumstance or item of evidence in the district court, or
2. he otherwise has had a valid excuse for his failure to do that.

A set-off defence asserted initially in the court of appeal may be dismissed unless it can be tried in the appellate proceedings without inconvenience.
(SFS 1994:1034)

Section 26

If a grave procedural error of the kind referred to in Chapter 59, Section 1, clauses 1 through 3, has occurred in the district court, the court of appeal shall set aside the district court judgment even if not requested to do so.

The judgment may be set aside in whole or only in part. If the procedural error also affects a part of the judgment from which no appeal has been taken, the court of appeal shall determine, having regard to the circumstances, whether that part shall be set aside. (SFS 1989:656)

Section 27

If an action concerns disqualification of a judge in the district court and if the court of appeal considers that the judge is disqualified, the court of appeal shall set aside the judgment in that part appealed against. (SFS 1994:1034)

Section 28

If in the district court an error other than those referred to in Section 26 or 27 has occurred, the court of appeal may set aside the district court judgment only if the error can be assumed to have affected the outcome of the case and correction of the error cannot be accomplished in the court of appeal without substantial inconvenience. The parties shall receive an opportunity to express themselves as to the issue of vacation unless it is clearly unnecessary. (SFS 1989:656)

Section 29

If the court of appeal sets aside a district court judgment on any other ground than lack of competence of the district court or another reason indicating that the district court should not have entertained the case, the court of appeal shall remit the action to the district court for further proceedings.

The power of the court of appeal, when the district court lacked competence, to refer the case to another district court is prescribed in Chapter 10, Section 20. (SFS 1994:1034)

Section 30

repealed by SFS 1994:1034

Chapter 51

APPEALS AGAINST JUDGMENTS IN CRIMINAL CASES

Section 1

A party desiring to appeal from a district court judgment in a criminal case shall do so in writing. The appeal papers shall be delivered to the district court. It shall have arrived at the court within three weeks of the date when the judgment was pronounced. (SFS 1994:1034)

Section 2

If one party has appealed from a district court judgment, the opposing party may appeal from the judgment within one week from the expiration of the time stated in Section 1. An appeal which has been made during such a period lapses if the first appeal is revoked or for other reasons lapses. (SFS 1994:1034)

Section 3

An appeal submitted too late shall be dismissed by the district court. However, the appeal shall not be rejected if it has arrived at the court of appeal within the appeal period. (SFS 1994:1034)

Section 4

In the appeal shall contain information concerning:
1. the judgment appealed from;
2. the part of the judgment appealed against and the amendment of the judgement sought;
3. the grounds for the appeal and in which respect the appellant considers the reasoning by the district court to be erroneous;
4. if leave to appeal is required, the circumstances relied upon in support of granting such leave to appeal; and

5. the evidence adduced and what shall be proved by each item of evidence.

Written evidence that has not been presented previously shall be submitted at the same time as the appeal. If the appellant requests that the court of appeal rehears a witness or expert or views anew the locus in quo, he shall state this and indicate the reasons therefor. He shall also state whether he requests the aggrieved person or the defendant to appear in person at the main hearing in the court of appeal. (SFS 1994:1034)

Section 5

If the appeal is not dismissed in accordance with Section 3, after expiration of the period stated in Section 2 the district court shall transmit without delay to the court of appeal the appeal and the case file.

If the defendant is in detention or the appellant contains a demand requiring immediate consideration, such as a request for the detention of the defendant, for a measure referred to in Chapters 25 through 28, or for the revocation of a decision on such a measure, the transmission shall occur immediately. However, until the period stated in Section 2 has expired, a copy of the appeal shall be held accessible at the district court. (SFS 1994:1034)

Section 6

If there is an impediment to considering an appeal other than that it has been submitted too late, the appeal may be dismissed immediately by the court of appeal.

Section 7

If the appeal fails to comply with the regulations in Section 4 or is otherwise incomplete, the court of appeal shall direct the appellant to cure the defect.

If the appellant fails to comply with a directive pursuant to the first paragraph, the appeal shall be dismissed if the petition is so incomplete that it cannot be the basis for the proceedings in the court of appeal without considerable disadvantage. (SFS 1994:1034)

Section 8

Unless otherwise provided by the second paragraph, the appeal shall be served upon the other party with a notice directing him to file a written response within a certain period. Information concerning the age, occupation and home address of the aggrieved person that has no relevance to the prosecution shall not be indicated by the documents served on the defendant in cases within the domain of public prosecution.

If it is obvious that the appeal is unfounded, the court of appeal may immediately pronounce judgment in the case.

If the district court has rejected a request for a measure stated in Chapters 26 through 28 or has revoked a decision of such a measure, the court of appeal may immediately grant the measure to remain effective until otherwise ordered. If the district court has granted such a measure, the court of appeal may immediately direct that no further step be taken to enforce the district court order. As to issues of detention, travel prohibition, and taking into custody pursuant to the Penal Code Chapter 28, the court of appeal may change the district court order even if the opposing party has not been heard.

When the court of appeal has issued an order for the detention of a person who is not present before it, the provisions in Chapter 24, Section 17, paragraphs 3 and 4, shall be applied. (SFS 1994:1034)

Section 9

The other party's response shall state the other party's views on the basis of the appeal presented by the appellant and state the circumstances he himself wishes to adduce.

In the response shall contain information concerning the evidence upon which the party seeks to rely and what is sought to be proved with each item of evidence. Written evidence not previously presented shall be delivered at the same time as the response. If the party requests that the court of appeal hears afresh the evidence of a witness or expert or views the locus in quo again, he shall so state this and the reasons therefor. He shall also state whether he requests the aggrieved person or the defendant to appear in person at the main hearing in the court of appeal. (SFS 1994:1034)

Section 10

The response shall be sent by the court of appeal to the appellant. Information concerning the age, occupation and home address of the aggrieved person that has no relevance to the prosecution shall not be indicated by the documents served on the defendant in cases within the domain of public prosecution.

If needed, the court of appeal may direct a further exchange of writings during the preparation. The court may also issue detailed regulations as to the exchange of writings and particularize the issues upon which the parties shall express themselves. However, a party may be directed to file more than one writing only for special reason.

During the preparation, sessions may be held if required to process the case efficiently. The court of appeal may decide that a person who is arrested or detained shall attend the session.

The provisions in Chapter 45, Section 13, and Chapter 47, Section 10, concerning sessions by telephone shall also apply to sessions pursuant to this section. (SFS 1994:1034)

Section 11

If a leave to appeal is required, the court of appeal shall decide, after the conclusion of the exchange of writings, whether such a leave to appeal shall be granted. If there are reasons, the issue may be dealt with without writings having been exchanged. (SFS 1994:1034)

Section 12

If the court of appeal considers it needed, the court of appeal shall decide that an expert opinion is obtained, that written evidence is produced, that objects are made available for view or inspection, or to take evidence outside the main hearing or that some other preparatory measure is taken.

A party who wishes that one of the measures referred to above be taken shall apply therefor to the court of appeal as soon as possible.

If, in a public prosecution, it is found that measures under Chapter 23 need to taken, the court of appeal may direct the prosecutor accordingly. (SFS 1994:1034)

Section 13

The court of appeal may determine a case without a main hearing,
1. if the prosecutor appeals only for the benefit of the defendant,

2. if only the defendant appealed and his application for an alteration is approved by the opposing party,
3. if it is manifest that the appeal is unfounded, or
4. if no reason exists to hold the defendant legally responsible, to impose a sanction upon him, or to impose a sanction other than a fine, a conditional sentence, or such sanctions jointly.

On equality with the sanctions stated in the first paragraph, clause 4, are imposition of a default fine and, provided that at the same time it is not an issue of forfeiting of a conditionally granted freedom from a sanction of imprisonment, an order in accordance with the Penal Code, Chapter 34, Section 1, paragraph 1, item 1. That provided by the first paragraph, item 4, concerning conditional sentence does not apply to a conditional sentence combined with a community service order.

If, in the situations stated in the first paragraph, a party has requested a main hearing, this shall take place unless manifestly unnecessary.

If an appeal is brought also for something else but criminal responsibility, the case may be decided without a main hearing only if, pursuant to Chapter 50, Section 13, that action may be considered without a main hearing.

For consideration of issues not related to the substantive issue on appeal, a main hearing is not required. (SFS 1998:605)

Section 14

If the court of appeal has ordered that a case shall be determined without a main hearing and it is not obvious at the time of the order that the parties have already concluded their actions, they shall be afforded an opportunity to do so. (SFS 1994:1034)

Section 15

Unless the case is determined in accordance with Section 13 without a main hearing, the court of appeal shall decide a time for such hearing. The time shall if possible be decided in consultation with the parties. To deal with a procedural issue or of such part of the substantive issue as may be determined separately, a main hearing may be scheduled even if the case is not otherwise ready for a main hearing.

If the defendant is in detention, the main hearing shall be held within four weeks from the expiration of the period stated in Section 2, unless a longer postponement is necessary owing to a measure referred to in Section 12 or other circumstances. If the defendant was detained after the expiration of the time stated in Section 2, the period shall be computed from the day of his detention. (SFS 1994:1034)

Section 16

Notice to appear at the main hearing shall be given to the parties.

A private appellant shall be directed to appear on pain that the appeal otherwise lapses. Moreover, if he shall appear in person, he shall be informed of the provision in Section 21, paragraph 1, second sentence. A private appellee shall be directed to attend under penalty of a default fine if he is obliged to appear in person or his presence else is found to be of importance for the disposal or investigation of the case. If as to the defendant there is reason to believe that he would not comply with such a directive, the court of appeal may order that he be brought to court in custody. When as to the private appellee no such a directive or order is issued, he shall be informed that the case may be determined notwithstanding his absence. The court of appeal shall decide that a defendant who is detained or arrested shall attend the main hearing.

In a public prosecution, if the aggrieved person is to be examined as part of the prosecutor's case, he shall be directed to appear in person at the main hearing under penalty of a default fine.

The court of appeal shall also decide whether a witness or expert shall be notified to attend at the main hearing. The parties shall be given notice of the decision. (SFS 1994:1034)

Section 17

As to main hearings at the courts of appeal in other respects, the provisions in Chapter 1, Section 9, and in Chapter 46, Sections 1 through 5, Section 6, paragraph 2, Sections 7 through 9, 11, 13, 16 and 17 shall apply. With respect to notices to appear at postponed main hearings and directives for the parties, the provisions in Section 16 of this chapter shall apply.

When a case is scheduled for a continued or new main hearing, the court of appeal may direct the measures found appropriate to facilitate conclusion of the case at that hearing.

As to such measures, the provisions in Sections 10 through 12 of this chapter shall apply. (SFS 1994:1034)

Section 18

At the main hearing the judgment appealed against shall be reported to the extent necessary. The appellant shall state the part of the judgment appealed from and the change in the judgment he requests. The opposing party shall be afforded an opportunity to respond to the request.

Subsequently, the prosecutor shall present the position of the prosecution to the extent required to consider the appeal. If the action is only presented by the aggrieved party, this applies instead to him. However, if the defendant has appealed and the court of

appeal finds it more suitable, the defendant may present his position before the prosecutor or the aggrieved person. Each party shall be afforded an opportunity to respond to the allegations of his adversary. When the hearing is held despite the absence of the appellee, his position, to the extent necessary, shall be presented from the documents by the court. (SFS 1994:1034)

Section 19

After the parties have explained their action, the evidence shall be presented. The court of appeal shall ensure that the evidence presented in the district court shall be presented from the documents to the extent that the evidence is of significance for the case in the court of appeal.

In the absence of special reason, evidence recorded by the district court, which should not be taken up again under Chapter 35, Section 13, shall be presented before evidence concerning the same circumstance is immediately taken by the court of appeal. If there are several items of evidence in issue concerning the same circumstance, these should be presented in without interruption. (SFS 1994:1034)

Section 20

After the evidence has been presented, the parties shall be afforded an opportunity to complete their actions. (SFS 1994:1034)

Section 21

If a private appellant fails to appear at a session for a main hearing, his appeal shall lapse. The same shall apply, if a private appellant who has been directed to appear in person appears only by representative and the court of appeal does not yet consider itself to be nevertheless able to adjudicate the appeal.

If a private appellee directed to appear under penalty of default fine fails to appear, the court of appeal, in lieu of directing him to appear under penalty of a new default fine, may direct that he be brought before to the court to custody either immediately or on a later date. The same shall apply as to a private appellee directed to appear in person under penalty of a default fine appears only by a representative.

In a public prosecution, if an aggrieved person who is to be examined in support of the prosecutor’s action, fails to appear in person, the second paragraph shall apply.

However, if the appellee has been directed to appear under penalty of a default fine, or if he is to be brought before the court into custody and it is found that the order for bringing him in court cannot be carried out, the appeal may be heard and decided on the merits notwithstanding the fact that the appellee has appeared by a representative only or has failed to appear. An appeal may also be adjudicated on the merits if a private appellant who was directed to appear in person has appeared only by a representative. (SFS 1994:1034)

Section 22

If the appellant's appeal has lapsed under Section 21, the court of appeal shall reinstate the case if he had a legal excuse for his non-appearance or for his failure to appear in person which excuse he could not provide notification in time.

An application for reinstatement shall be made in writing within two weeks from the issuance of the decision. If, after the reinstatement of the case, the appellant again does not appear at a main hearing or fails to obey a directive to appear in person, he is not entitled to have the case reinstatement of the case. (SFS 1994:1034)

Section 23

If at the main hearing in the district court concerning a particular circumstance a witness or expert was heard by the court or a view of the locus in quo was held and the evaluation of that evidence is decisive also for the outcome in the court of appeal, that part of the district court judgment may not be changed without the evidence being taken again at a main hearing in the court of appeal. However, such a change may be made if it is to the advantage of the defendant or there are extraordinary reasons for the evidence for the conclusion of the evidence being different from that attached to it by the district court. (SFDS 1994:1034)

Section 23a

If the district court has found that the defendant shall be sentenced for the charged criminal act and appeal from the judgment has been brought only about issues other than that, the court of appeal shall consider the issue only if:
1. concerning this part there is any circumstance that could be the basis for relief for a substantive defect pursuant to Chapter 58, Section 2, or for vacation of the judgment for grave procedural errors, or
2. the outcome in the district court in the same part is manifestly due to oversight or error.

As to the questions stated in the first paragraph, clause 1 or 2, only the circumstances asserted by a party are required to be taken into consideration. (SFS 1989:656)

Section 24

An appeal may be withdrawn prior to the pronouncement of the judgment or final order of the court of appeal. A prosecutor who has appealed to the court of appeal against the defendant may amend his appeal to the benefit of the defendant.

An appellant may not amend his claim on appeal to include an act other than the one specified in the appeal. (SFS 1994:1034)

Section 25

In an appeal lodged by the defendant, or by the prosecutor for the benefit of the defendant, the court of appeal may not sentence the defendant to a criminal sanction which may be considered to be more severe or more farreaching than the one imposed by the district court. However, the court of appeal may sentence the defendant to surrender for special treatment or, if the district court has ordered such a treatment, sentence him to another sanction.

When applying the first paragraph, restricted youth care under Chapter 31, Section 1a of the Penal Code shall be equated to imprisonment.

If the district court has combined a conditional sentence or probation with provisions that require consent and the sentenced person no longer consents the provisions, the court of appeal may notwithstanding the first paragraph impose a sentence for a more severe or more farreaching sanction.

In appeals stated in the first paragraph, the court of appeal may not order deportation of the defendant unless the district court has ordered such a sanction, nor decide the prohibition for the defendant to return to Sweden for a period longer than fixed by the district court. (SFS 1998:605)

Section 26

If a grave procedural error of the kind referred to in Chapter 59, Section 1, clauses 1 through 3, has occurred in the district court, the court of appeal shall set aside the district court judgment even if not requested to do so.

The judgment may be set aside in whole or only in a particular part. If the procedural error also affects a part of the judgment from which appeal has not been taken, the court of appeal shall determine on the particular circumstances whether that part shall be set aside. (SFS 1989:656)

Section 27

If the issue of the disqualification of judge in the district court is raised and the court of appeal consider that the allegation of disqualification is well-founded, the court of appeal shall set aside the district court judgment to the extent appealed from. (SFS 1994:1034)

Section 28

If in the district court a procedural error other than those referred to in Section 26 or 27 has occurred, the court of appeal may set aside the district court judgment only if the error can be assumed to have affected the outcome of the case and correction of the error cannot be accomplished in the court of appeal without substantial inconvenience. The parties shall be afforded an opportunity to express their views on the issue of vacation unless it is manifestly unnecessary. (SFS 1989:656)

Section 29

If the court of appeal sets aside a district court judgment and the decision on appeal is not based on lack of competence in the district court or another ground indicating that the district court should not have entertained the case, the court of appeal shall remit the case to the district court for further proceedings.

The authority of the court of appeal, when it finds that the district court lacked competence, to refer the case to another district court is described in Chapter 19, Section 11. (SFS 1994:1034)

Section 30

When the appeal from the district court judgment concerns only matters other than liability, the case shall be dealt with as a civil case in the court of appeal. (SFS 1994:1034)

Chapter 52

APPEALS AGAINST DECISIONS

Section 1

A person desiring to take a appeal against a district court decision shall do so in writing The document shall be delivered to the district court.

The petition shall have been delivered to the court within three weeks from the pronouncement of the decision. However, if a decision during the proceedings has not been issued at a session nor has it been made known when the decision will be issued, the appeal period shall be computed from the date when the appellant received the decision.
No time limit shall apply to an appeal from an order requiring a person to be placed or kept in detention, permit for restrictions under Chapter 24, Section 5a concerning the imposition of travel prohibition or an issue of the kind referred to in Chapter 49, Section 7.

Chapter 49 prescribes that in certain situations anyone desiring to appeal from an order is obliged first to give a formal notice of intention to appeal. (SFS 1994:1034)

Section 2

An appeal that is delivered too late shall be dismissed by the district court. However, if the appeal was delivered to court of appeal within the period for appeal. (SFS 1994:1034)

Section 3

The appeal shall contain information about:
1. the decision appealed from;

2. the change in the decision sought;
3. the grounds for the appeal;
4. the circumstances adduced to support the grant of leave to appeal, when such leave is required; and
5. the evidence adduced and is to be proved by each item of evidence.

Written evidence that has not been presented previously, shall be submitted at the same time as the appeal. (SFS 1994:1034)

Section 4

If the appeal is not dismissed, the district court shall transmit without delay to the court of appeal the limited appeal petition with the papers annexed thereto and an original or certified copy of the file to the extent related to the challenged matter. (SFS 1994:1034)

Section 5

If an impediment other than the kind referred to in Section 2 precludes consideration of the appeal, the court of appeal may dismiss forthwith the appeal. (SFS 1994:1034)

Section 6

If the petition fails to comply with the regulations in Section 3 or otherwise is incomplete, the court of appeal shall direct the appellant to cure the defect.

If the appellant fails to comply with a directive pursuant to the first paragraph, the appeal shall be dismissed if it is so incomplete that it cannot without considerable disadvantage be the basis for the proceedings in the court of appeal. (SFS 1994:1034)

Section 7

If the court of appeal consider that the opposing party should be given an opportunity to respond, the petition with the papers annexed thereto shall be served upon him with a notice directing him to file a written answer within a specified period.

Unless an opportunity to respond has been given to the opposing party, the decision may not be changed to his detriment.

If in a civil case the district court has rejected a request for provisional attachment or any other measure pursuant to Chapter 15 or has ordered the revokation of such a measure, or if in a criminal case the court has rejected a request for a measure stated in Chapters 26 through 28 or has ordered the revokation of such a measure, the court of appeal may grant immediately the measure to remain effective until otherwise directed. If the district court has granted such a measure or has directed that enforcement of an order may occur even if it has not entered into legal force, the court of appeal may direct immediately that the decision of the district court may not be executed. As to
detention or permits for restrictions under Chapter 24, Section 5a, or travel prohibition the court of appeal may also change the district court's decision without hearing the opposing party. (SFS 1994:1034)

Section 8

The opposing party shall in his response express his views on the grounds for the appeal adduced by the appellant and himself state the circumstances he wants to rely.

The respondent shall specify the evidence upon which he desires to rely and what he intends to prove by each item of evidence. Written evidence that has not been previously presented shall be submitted to the court of appeal with the response. (SFS 1994:1034)

Section 9

If needed, the court of appeal may decide on further exchange of writings. The court may also issue detailed regulations as to the exchange of writings and in that connection particularize the issues upon which the parties shall express themselves. However, a party may only be directed to submit more than one writing if there is special reason. (SFS 1994:1034)

Section 10

If a leave to appeal is required and the opposing party has been hear concerning the appeal the court of appeal shall decide, after exchange of writings is concluded, whether such a leave to appeal shall be granted. If there is reason, the question may be decided without any exchange of writings. (SFS 1994:1034)

Section 11

If examination of a party or a third person is found necessary for the investigation of the appeal, the court of appeal shall direct such an examination in an appropriate manner. The court of appeal shall decide upon the attendance for examination of a person who is under arrest or in detention.

The provisions in Chapter 43, Section 8, paragraph 4, apply also to examinations pursuant to the first paragraph.

If the court of appeal has ordered the detention of a person who is not present in the court, the provisions in Chapter 24, Section 17, paragraphs 3 and 4, shall apply. (SFS 1994:1034)

Section 12

A limited appeal may be withdrawn at any time prior to the pronouncement of the final decision by the court of appeal.

Section 13

If a party or intervenor has appealed against a decision included in a judgment or which may only be appealed against in conjunction with an appeal against the judgment, and the judgment is also appealed against, the cases in the court of appeal shall also be dealt with jointly under Chapters 50 or 51.

The first paragraph does not apply if the decision concerns a representative, a defender, a witness, an expert or some other who is not a party or intervenor in the district court. (1994:1034)

Chapter 53

ACTIONS INSTITUTED DIRECTLY IN COURTS OF APPEAL

Section 1

In a civil case to be instituted directly in a court of appeal, the provisions of Chapters 42 to 44 concerning proceedings in the district courts shall apply. (SFS 1994:1034)

Section 2

In criminal cases to be instituted directly in a court of appeal, the provisions in Chapters 45 to 47 concerning proceedings in the district courts shall apply; subject to the following differences:

1. The court of appeal may not authorize the prosecutor to issue a summons.
2. The court of appeal shall in the summons direct the defendant to answer in writing within a certain period. The answer documents shall be transmitted to the prosecutor. The court of appeal may direct further exchange of writings if necessary. The court may also issue detailed regulations as to the exchange of writings and in that connection particularize the issues upon which the parties shall express themselves.
3. In lieu of the one week period prescribed in Chapter 45, Section 14, Chapter 46, Section 11, and Chapter 47, Section 22, for holding the main hearing in certain cases, a period of two weeks shall apply.
4. If there is no reason to issue a sentence of a penalty more severe than a fine, the court of appeal may decide the case without a main hearing. In such cases the provisions in Chapter 51, Section 14, shall apply. (SFS 1994:1034)

PART SIX

PROCEEDINGS IN THE SUPREME COURT

Chapter 54

RIGHTS OF APPEAL FROM JUDGMENTS AND DECISIONS OF THE COURTS OF APPEAL

Section 1

A judgment of the court of appeal may be appealed against unless otherwise provided.

When a court of appeal enters a judgment in the situation stated in Chapter 17, Section 5, paragraph 2, the court of appeal shall decide, in view of the circumstances, whether an appeal from the judgment shall be taken separately or only together with an appeal from the final determination by the court of appeal.

A party against whom a default judgment was entered may not appeal from that judgment. Provisions as to his right to a reopening of the case following the entry of such a judgment are found in Chapter 44, Section 9 and Chapter 53, Section 1. (SFS 1994:1034)

Section 2

If the parties have agreed in writing not to appeal from a judgment to be entered either in an actual dispute between them or in any future dispute which can be derived from a specified legal relationship between them, the agreement is effective provided that an out of court settlement of the matter at issue is permitted. However, an agreement made before the outset of the dispute, is not effective in the cases stated in Chapter 1, Section 3d, paragraph 1.

An undertaking not to appeal made after the entry of judgment is effective if an out of court settlement of the issue is permitted. (SFS 1994:1034)

Section 3

An appeal may be brought against a final decision of a court of appeal unless otherwise provided. However, if a party is entitled to apply for reinstatement of a case determined by a final decision, he may not appeal against the decision.

A decision of a court of appeal whereby a case is remitted to the district court may be appealed against only if the court of appeal's consideration includes the determination of an issue that affects the result of the case.

A decision of a court of appeal concerning the issue of compensation to a public defence counsel brought to such a court by appeal may not be appealed against. However, the court of appeal may permit appeal from its decision if there are special reasons for an examination whether leave to appeal shall be granted pursuant to Section 10, paragraph 1, item 1. (SFS 1994:1034)

Section 4

The provisions in Chapter 49, Sections 4 through 6, 8 and 11, concerning appeals from district court decisions shall apply to appeals from decisions other than final decisions of a court of appeal on issues referred to in the said Sections and raised in, or appealed to, a court of appeal. (SFS 1994:1034)

Section 5

As to decisions of a court of appeal other than those referred to in Sections 3 or 4, Chapter 49, Section 3, paragraph 2 and Section 9 shall apply.
(SFS 1994:1034)

Section 6

If a court of appeal rejected a request for detention, permit for restrictions under Chapter 24, Section 5a or travel prohibition or revoked a decision concerning detention, permit for restrictions under Chapter 24, Section 5a or travel prohibition, the decision may only be appealed against in conjunction with the judgment or final decision of the court of appeal. (SFS 1994:1034)

Section 7

A ruling of a court of appeal that the district court was competent to entertain a case is appealable only if the challenge to the competence of the district court is based upon a circumstance that on appeal a superior court is required to take into account on its own volition. (SFS 1994:1034)

Section 8

A decision may not be appealed from, if the court of appeal in the decision

1. considered an issue of disqualification of a judge in the district court,
2. considered an issue appealed to the court of appeal as stated in Chapter 49, Section 5, item 7 or 9 or Section 7, or
3. granted leave to appeal. (SFS 1994:1034)

Section 9

Leave to appeal is required for the Supreme Court to review a court of appeal judgment or final decision in a case or matter instituted in the district court. This also applies to a final decision by a court of appeal in a matter which has a direct relation with such a case or matter, except decisions referred to in Section 17.

The first paragraph does not apply to appeals brought by the Prosecutor-General, the Chancellor of Justice or one of the Parliamentary Ombudsmen. (SFS 1994:1034)

Section 10

Leave to appeal may be granted only if
1. it is of importance for the guidance of the application of law that the Supreme Court considers the appeal; or
2. there are extraordinary reasons for such a determination, such as that grounds exist for relief for substantive defects or that a grave procedural error has occurred or that the result in the court of appeal is obviously due to gross oversight or to gross mistake.

If leave to appeal is required in two or more cases similar in nature and the Supreme Court grants leave to appeal in one of them, leave to appeal may also be granted in the other cases. (SFS 1994:1034)

Section 11

Leave to appeal may be limited to concern a certain issue in the case the determination of which is of importance for the guidance of the application of law (precedent question) or a certain part of the case. (SFS 1994:1034)

Pending the consideration in accordance with a leave to appeal limited pursuant to the first paragraph, the Supreme Court may

order a stay of the issue of leave to appeal regarding the remainder of the case, wholly or partially.

Leave to appeal granted without such a limitation as stated in the first paragraph applies to

1. the judgment or final decision to the extent the party has appealed against the determination,
2. decisions appealed against included in the judgment or the final decision and which do not concern a attorney, a witness, an expert or someone else who was not a party or intervenor in the court of appeal,
3. decisions appealed against which may only be appealed against in conjunction with an appeal against the judgment or the final decision.

To the extent that a leave to appeal is granted and the issue on leave is not stayed, the court of appeal judgment or final decision shall remain effective. Information concerning this shall be included in the Supreme Court decision. (SFS 1994:1034)

Section 12

Regarding the appeals stated in Section 9, paragraph 2, if the case has been instituted at a district court, the Supreme Court may decide to limit the consideration of the case to a certain precedent question.

A decision referred to in the first paragraph may be pronounced valid until otherwise is decided. Such a decision shall be made pursuant to the rules for decisions concerning leave to appeal. If a decision is taken pursuant to this paragraph, the remainder of the case shall be stayed.

To the extent the Supreme Court does not determine the case, the court of appeal judgment or final decision shall remain effective.

Information concerning this shall be included in the decision whereby such determination was refused.
(SFS 1994:1034)

Section 13

When deciding whether leave to appeal shall be granted, consideration needs only be taken of circumstances alleged by the appellant. (SFS 1994:1034)

Section 14

As to an appeal from a decision of a court of appeal which is not final and which is pronounced in a case or a matter instituted in a district court, the provisions in Sections 9 to 13 shall apply. However, this does not apply if the Supreme Court has granted leave to appeal for an appeal from the judgment or final decision of a court of appeal which according to Section 11, paragraph 3, also encompasses the decision. (SFS 1994:1034)

Section 15

If a decision by a court of appeal pursuant to Section 3, second paragraph or Sections 6, 7 or 8 may not be appealed from, the decision shall contain information concerning this.

If leave to appeal is required in the Supreme Court, the judgment or decision of the court of appeal shall contain information concerning this and the content of Section 10. (SFS 1994:1034)

Section 16

A party who considers information pursuant to Section 15, paragraph 1, to be erroneous may request determination of the issue of right to appeal by the Supreme Court in conjunction with an

appeal from the decision. The issue may not be determined by the Supreme Court otherwise. (SFS 1994:1034)

Section 17

An appeal may be made from a court of appeal order dismissing a formal notice of intention to appeal, an application for reopening or reinstatement of, or an appeal from the judgment or decision of a court of appeal. Otherwise the Supreme Court may not try the question whether such notice was given, application made, or appeal taken, in due time.
(SFS 1994:1034)

Chapter 55

APPEALS AGAINST JUDGMENTS

Section 1

A party desiring to appeal from a court of appeal judgment shall do son in writing. The appeal papers shall be delivered to the court of appeal. It shall have arrived at the court within four weeks from the pronouncement of the judgment. (SFS 1994:1034)

Section 2

An appeal which has not arrived in due time shall be dismissed by the court of appeal. However, if it has arrived at the Supreme Court within the appeal period the appeal shall not be dismissed. (SFS 1994:1034)

Section 3

The appeal shall contain information concerning:
1. the judgment appealed from;
2. the part of the judgment appealed against and the amendment of the judgment sought;
3. the grounds for the appeal stating in which respect the appellant considers the reasoning by the court of appeal to be erroneous;
4. the circumstances relied on in support of granting leave to appeal, when such leave is required; and
5. the evidence adduced and what shall be proved by each item of evidence.

In a civil case, if a circumstance or item of evidence is adduced that was not presented previously, the appellant shall state the reason of therefor. Written evidence which has not been presented previously shall be submitted with the appeal. The appellant shall also state whether he requests the opposing party or, in a criminal case, the

aggrieved person or the defendant to appear in person at the main hearing in the Supreme Court.

In criminal cases, if the defendant is under arrest or in detention, this shall be stated. (SFS 1994:1034)

Section 4

If the appeal is not dismissed pursuant to Section 2, the court of appeal shall, on expiry of the appeal period, transmit the appeal and other documents in the case to the Supreme Court. The transmission shall occur immediately, in criminal cases if the defendant is in detention, or if the appellant presents an application requiring immediate consideration, such as a request in civil cases for provisional attachment or an application for the revocation of a decision concerning such a measure or of a decision that a judgment may be enforced immediately even though it has not entered into final force or a request in criminal cases for the detention of the defendant, or concerning a measure stated in Chapters 25 to 28, or for the revocation of a decision concerning such a measure. (SFS 1994:1034)

Section 5

If there is any other impediment precluding the entertainment of the appeal, other than that it arrived too late, it may be dismissed by the Supreme court immediately. (SFS 1994:1034)

Section 6

If the appeal fails to comply with the regulations in Section 3, first paragraph, items 1–3 or 5 or second paragraph or is otherwise incomplete, the Supreme Court shall order the appellant to cure the defect.

If the appellant fails to comply with an order, the appeal shall be dismissed if the appeal is so incomplete that it cannot be the basis for the proceedings in the Supreme Court without considerable inconvenience. (SFS 1994:1034)

Section 7

If leave to appeal is required, the Supreme Court shall decide whether such leave shall be granted. If there is reason, the issue may be dealt with without writings having been exchanged. (SFS 1994:1034)

Section 8

Unless otherwise provided by Section 7, the appeal shall be served on the respondent with an order to answer in writing within a certain period. Information concerning the age, occupation or home address that is not relevant to the prosecution shall not be indicted by the documents served on the defendant in cases within the domain of public prosecution.

If the court of appeal in a civil case has rejected a request for provisional attachment or another measure under Chapter 15 or has revoked a decision concerning such a measure, or in a criminal case has rejected a request on such a measure stated in Chapters 26 to 28 or has revoked a decision concerning such a measure, the Supreme Court may immediately grant the measure to remain effective until otherwise ordered. If the court of appeal has ordered such a measure or has declared that the judgment may be enforced immediately even if it has not entered into final force, or has confirmed a district court decision on this, the Supreme Court may immediately decide that the district court’s or court of appeal’s decision may not be executed until otherwise ordered. As to detention or travel prohibition, the Supreme Court may change the decision of the court of appeal even if the other party has not been heard. (SFS 1994:1034)

Section 9

The other party shall in his response state his views on the grounds given for appeal by the appellant and state the circumstances upon which the he himself desires to rely. This does not apply in civil cases where the appellant's request is consented to.

The response shall contain information concerning the evidence upon which the party seeks to rely and what he intends to prove by each item of evidence. In a civil case, if a circumstance or an item of evidence is adduced in the Supreme Court that was not presented previously, the party shall explain the reason for this. Written evidence which has not been presented previously shall be delivered to the Supreme Court at the same time as the written answer. The party shall also state whether he requests the opposing party or, in criminal cases, the aggrieved person or the defendant to appear in person at the main hearing in the Supreme Court. (SFS 1994:1034)

Section 10

The Supreme Court shall transmit the written answer to the appellant. Information concerning the aggrieved person's or witness´s age, occupation or residential address which has not bearing on the prosecution shall not be stated in the documents transmitted to the defendant in cases of public prosecution.

If it is found necessary, the Supreme Court may decide on a further exchange of writings. The Supreme Court may also issue detailed regulations as to the exchange of writings and even particularize the issues upon which the parties shall express themselves. A party may be directed to file more than one writing only if there are special reasons.
(SFS 1994:1034)

Section 11

Without a main hearing the Supreme Court may determine
1. a precedent question,
2. a case in which, by virtue of the provisions in Section 12, the Supreme Court bases its judgment in all material respects upon the adjudication of the court of appeal,
3. a case taken up directly by a court of appeal, or
4. such a case or such an issue in a case that must be decided by the Supreme Court as a full court of judges or by nine Justices of the Court.

Concerning determinations without a main hearing in other respects in the Supreme Court, the provisions in Chapter 50, Section 13, shall apply in civil cases and the provisions of Chapter 51, Section 13, in criminal cases. (SFS 1996:157)

Section 12

If by application of the provisions in Chapter 54, Section 11 or 12, the Supreme Court has considered a precedent question and further consideration is required, the Court may base, wholly or partially, its determination of the case in other aspects upon the court of appeal's assessment or set aside the lower court's judgment and remit the case to the lower court for further proceedings.

A precedent question may be decided by judgment also in situations other than those stated in Chapter 17, Section 5, paragraph 2. (SFS 1994:1034)

Section 13

In civil cases a party may assert in the Supreme Court in support of his action a circumstance or item of evidence which has not previously been presented only if he shows probable cause for not

having been able to invoke the circumstance or item of evidence in a lower court or otherwise has a valid excuse for failing to do so.

A set-off defence initially asserted in the Supreme Court may be dismissed unless it can be considered in the case without inconvenience. (SFS 1994:1034)

Section 14

If at the main hearing in a lower court concerning a particular circumstance examination took place of a witness, expert, or party under oath was taken or a view of the locus in quo was held and the evaluation of that evidence is decisive also for the outcome in the Supreme Court, part of the court of appeal judgment may only be changed if the court of appeal changed in the same part the judgment of the district court without taking up evidence of the main hearing. However, such a change may be made if it is to the advantage of the defendant or if there are extraordinary reasons to conclude that the value of the evidence is other than that attached to it by the court of appeal. (SFS 1994:1034)

Section 15

As to the proceedings in the Supreme Court in other respects the following provisions shall apply
1. in civil cases, Chapter 50, Section 10, paragraphs 3 and 4, Section 12, Sections 14 to 22, Section 24 and Section 25, first and second paragraphs, and
2. Chapter 51, Section 8, paragraph 4, Section 10, paragraphs 3 and 4, Section 12, Sections 14 to 22, and also 23a, 24, 25 and 30.

The provisions concerning vacation of district court judgments and remission stated, with respect to civil cases in Chapter 50, Sections 26 to 29, and with respect to criminal cases in Chapter 51, Sections 26 to 29, apply to the Supreme Court with regard to judgments by a lower court. (SFS 1994:1034)

Chapter 56

APPEALS AGAINST DECISIONS AND SUBMISSION OF PRECEDENT QUESTIONS*

Section 1

A person wishing to appeal a court of appeal's decision shall do so in writing. The appeal papers shall be delivered to the court of appeal.

The papers shall have arrived at the court of appeal within four weeks of the day when the decision was pronounced. However, if a decision rendered in the course of the proceedings has not been pronounced at a session and neither has it been made known at a session when the decision will be pronounced, the period for appeal shall be computed from the day when the appellant received the decision. An appeal from a decision concerning a person's detention, remand in detention, permit for restrictions under Chapter 24, Section 5a or concerning an order of travel restrictions is not limited to any specific time.

The provisions of Chapter 49 and Chapter 54, Section 4 provide that a person wishing to appeal from a court of appeal's decision shall in certain cases first give formal notice of intention to appeal. (SFS 1994:1034)

Section 2

An appeal submitted too late shall be dismissed by the court of appeal. However, the appeal shall not be dismissed if it has arrived at the Supreme Court within the appeal period. (SFS 1994:1034)

* Title amended by SFS 1994:1034.

Section 3

The appeal shall contain information concerning:
1. the decision appealed from;
2. the change in the decision requested;
3. the grounds for the appeal;
4. the circumstances relied on in support of granting leave to appeal, when such leave is required, and
5. the evidence adduced and what is intended to be proven by each item of evidence.

Written evidence which has not been presented previously shall be submitted at the same time as the appeal. (SFS 1994:1034)

Section 4

If the appeal is not dismissed under Section 2, the court of appeal shall transmit without delay to the Supreme Court the appeal and other papers in the case which are of relevance to the consideration to the appeal. (SFS 1994:1034)

Section 5

If an impediment, other than that it has been submitted too late precludes consideration of the appeal, the appeal may be dismissed immediately by the Supreme Court. (SFS 1994:1034)

Section 6

If the appeal fails to comply with the regulations in Section 3, paragraphs 1, items 1 – 3 or 5, or is otherwise incomplete, the Supreme Court shall direct the complainant to cure the defect.

If the complainant fails to comply with the directive the appeal shall be dismissed if it is so defective that it cannot be the basis for the

proceedings in the Supreme Court without considerable disadvantage. (SFS 1994:1034)

Section 7

If the Supreme Court consider that the opposing party should be heard in the appeal the appeal shall be served upon him with a notice directing him to file a written response within a specified time. (SFS 1994:1034)

Section 8

The other party shall in his response state his views on the complainant's grounds for his appeal and specify the circumstances upon which the respondent wants to rely.

The response shall specify the evidence upon which he wants to rely and what the party intends to prove by each item of evidence. Written evidence not previously presented shall be presented to the Supreme Court at the same time as the response. (SFS 1994:1034)

Section 9

If needed, the Supreme Court may order a further exchange of writings. The Court may also issue detailed regulations as to the exchange of writings and particularize the issues upon which the parties shall express themselves. A party may be directed to file more than one writing only for special reason. (SFS 1994:1034)

Section 10

If leave to appeal is required and the opposing party has been heard concerning the appeal, the Supreme Court shall determine, after the conclusion of the exchange of writings, whether such a leave shall be granted. If there is reason, the issue may be disposed of although an exchange of writings has not occurred. (SFS 1994:1034)

Section 11

As to the proceedings in the Supreme Court in other respects, the provisions in Chapter 52, Sections 11 through 13, and Chapter 55, Section 12, paragraph 1, shall be applied.

When applying Chapter 55, Section 12, first paragraph, the joint processing of the cases shall take place in accordance with Chapter 55 instead of Chapters 50 or 541. (SFS 1994:1034)

Section 12

As regards appeals under Chapter 8, Section 8, the provisions of Section 1 to 11 apply with the following differences:

1. The appellant shall submit his writing to the Bar Association within four weeks of receiving the decision.
2. Unless special reasons indicate otherwise, the appellant and, when the appeal is brought by the Chancellor of Justice, the opposing party as well, shall be orally heard in the Supreme Court.
3. The organ of the Bar Association that rendered the decision appealed from shall be afforded an opportunity to file a written explanation and, when a party is orally heard, to express its views.
4. A decision by the Bar Association to dismiss an appeal may be appealed to the Supreme Court. The provisions in item 1 then apply. (SFS 1994:1034)

Section 13

If the parties have concluded such an agreement as stated in Chapter 49, Section 2, not to appeal from the judgment of the district court, with the parties' consent, the district court may submit a particular issue in the case for decision by the Supreme Court. (SFS 1994:1034)

Section 14

An issue submitted pursuant to Section 13 may not be heard by the Supreme Court, unless the Court has granted leave to appeal thereto. Such a leave may be granted only if it concerns such a precedent question as stated in Chapter 54, Section 11, paragraph 1.

The matter of granting leave to appeal may be determined without the parties having had any opportunity to be heard in the matter. (SFS 1994:1034)

Section 15

If leave to appeal is granted pursuant to Section 16, the Supreme Court shall determine the precedent question applying the provisions in Sections 7, 9 and 11. (SFS 1994:1034)

Chapter 57

CASES INSTITUTED DIRECTLY IN THE SUPREME COURT

Section 1

The provisions of Chapter 53 apply to cases to be instituted directly in the Supreme Court. (SFS 1994:1034)

PART SEVEN

EXTRAORDINARY REMEDIES

Chapter 58

RELIEF FOR SUBSTANTIVE DEFECTS AND RESTORATION OF EXPIRED TIME

Section 1

After a judgment in a civil case has entered into final force, relief for a substantive defect may be granted for the benefit of any of the parties:

1. if a member of the court or an officer employed at the court, in respect of the case, is guilty of criminal conduct or neglect of official duty or if an attorney or a legal representative is guilty of an offence with regard to the case, and the offence or neglect of duty can be assumed to have affected the outcome of the case;
2. if a written document presented as proof was forged, or if a party examined under truth affirmation, or a witness, expert, or interpreter gave false testimony, and the document or statement can be assumed to have affected the outcome;
3. if a circumstance or item of evidence that was not presented previously is invoked and its presentation would probably have led to a different outcome; or
4. if the application of law forming the basis of the judgment is manifestly inconsistent with a statutory provision.

Relief for a substantive defect may not be granted on the basis stated in item 3 unless the party shows that probable cause that he was unable to invoke the circumstance or item of evidence in the court that pronounced the judgment or on appeal therefrom or he else had a valid excuse for failing to do so. (SFS 1975:670)

Section 2

After a judgment in a criminal case has entered into final force, relief for a substantive defect may be granted for the benefit of the defendant:

1. if any member of the court, an officer employed at the court, or the prosecutor, with respect to the case, is guilty of criminal conduct or neglect of official duty, or if an attorney, legal representative, or defence counsel is guilty of an offence with regard to the case, and the offence or neglect of duty can be assumed to have affected the outcome of the case,
2. if any legally qualified judge or the prosecutor has been disqualified and it is not plain that the disqualification has been without importance as to the outcome of the case,
3. if a written document presented as evidence was forged or a witness, expert, or interpreter gave false testimony and the document or statement can be assumed to have affected the outcome,
4. if a circumstance or item of evidence that was not presented previously is invoked and the its presentation probably would have led to the defendant's acquittal or that the offence would have been linked to a sanction provision milder than that applied, or if in view of the new matter and other circumstances, extraordinary reasons warrant a new trial on the issue whether the defendant committed the offence for which he was sentenced, or
5. if the application of law forming the basis of the judgment is manifestly inconsistent with a statutory provision. (SFS 1987:1345)

Section 3

After a judgment in a criminal case has entered into final force, relief for a substantive defect may be granted to the detriment of the defendant:

1. if any such condition of the kind referred to in Section 2, clause 1 or 3, existed and this can be assumed to have contributed to the defendant's acquittal or that the offence was linked to a sanction

provision substantially milder than the one that should have been applied, or
2. if the offence is punishable by imprisonment for a term exceeding one year and some circumstance or item of evidence that was not presented previously is invoked and its presentation probably would have led to conviction of the defendant for the offence or that the offence would have been linked with a sanction provision substantially more severe than the one applied.

Relief for a substantive defect may not be granted on the basis stated in clause 2, unless the party shows probable cause that he was unable to invoke the circumstance or item of evidence in the court that pronounced the judgment or on appeal therefrom or he otherwise had a valid excuse for failing to do so. (SFS 1987:1345)

Section 4

A person who wants to apply for relief for a substantive defect shall file a written application therefor with the court of appeal if the judgment was pronounced by a district court and in other cases with the Supreme Court.

Applications in civil cases based upon a situation of the kind referred to in Section 1, paragraph 1,
clause 1, 2, or 3, and applications in criminal cases to the detriment of the defendant shall be made within one year of the time when the situation that the application is based on became known to the applicant. If the application is based upon the criminal act of another, the time may be computed from the time when the judgment concerning that criminal act entered into final force. In civil cases, relief based on a situation of the kind referred to in Section 1, paragraph 1, clause 4, shall be sought within six months of the time when the judgment entered into final force. (SFS 1988:1451)

Section 5

In the application for relief for a substantive defect the applicant shall specify:
1. the challenged judgment;
2. the basis of, and supporting reasons for, the application; and
3. the evidence which the applicant desires to invoke and what he seeks to prove by each particular item of evidence.

If the application is based upon situations stated in Section 1, paragraph 1, clause 3, or Section 3, paragraph 1, clause 2, the applicant shall state the reasons why the circumstance or item of evidence was not invoked in the proceedings.

The application shall be signed by the applicant or his attorney in his own hand.

The original or a certified copy of the written evidence invoked by the applicant shall be annexed to the application.

Section 6

If the application for relief for a substantive defect is not dismissed, the application, with the documents annexed thereto, shall be served upon the opposing party. He shall simultaneously be directed to file a written explanation. If the application is unfounded, however, it may be rejected immediately.

If the determination of the application takes place in a court of appeal, the provisions in Chapter 52, Sections 8 through 12 shall apply. If the application is directly entertained by the Supreme Court, the provisions in Chapter 56, Sections 8,9 and 11 shall apply.

The court may direct that, until otherwise ordered, no further steps may be taken to enforce the judgment. (SFS 1996:157)

Section 7

If relief for a substantive defect is granted, the court shall simultaneously direct that the case be taken up anew by the court that last adjudicated in the case. However, when such relief is granted in a civil case or in a criminal case for the benefit of the defendant and the matter is found to be obvious, the court may change the judgment immediately.

If the applicant fails to appear at a hearing for the readjudication of the case, the proceedings for relief for substantive defect shall be considered to have lapsed. If the opposing party fails to appear, the case may nonetheless be determined. The notices to appear shall contain information on these rules. The provisions of this paragraph are not applicable to prosecutors. (SFS 1988:1451)

Section 8

If an application for relief for a substantive defect is dismissed or rejected, the applicant may be ordered to reimburse the opposing party or, if the public prosecutor is the adversary, the State for costs incurred in the proceedings for relief. If the relief was sought by the prosecutor, the costs may be paid out of public funds. If the application is granted, the issue of costs shall be determined in conjunction with the case after its reinstatement. (SFS 1988:1451)

Section 9

If a judgment in a criminal case also encompasses a matter other than criminal responsibility, relief for a substantive defect as to that part of the case shall be governed by the provisions for relief for substantive defect in civil cases; however, notwithstanding this rule, if relief is granted regarding the question of criminal responsibility, relief for substantive defect may nevertheless be granted at the same time, as regards to the case in other respects.

Section 10

The provisions in Sections 1 through 9 concerning judgments shall correspondingly apply to court decisions.

Section 10a

If an appeal from a decision by an authority other than a district court should have been appealed to a district court or a court of appeal, the application for relief for a substantive defect in the matter shall be filed with the court of appeal. The same rule applies to matters that have been concluded by consent of an order of summary penalty or approval of an order for breach-of-regulations fine.

As to an application made pursuant to the first paragraph, the provisions of Sections 1 through 3, Section 4, paragraph 2, and Sections 5 through 8 apply. (SFS 1988:1451)

Section 11

If a person has missed the time applicable to appeal against a judgment or decision or for reopening or reinstatement, and if he had legal excuse, on application by him the expired time may be restored. (SFS 1994:1034)

Section 12

A person who wishes to apply for the restoration of expired time for an appeal to a court of appeal or for an application for reopening or reinstatement in a district court shall do so in writing with the court of appeal within three weeks of the termination of the excuse and, at the latest, within one year of the expiration of the period.

An application for the restoration of expired time for an appeal to the Supreme Court or for an application for a reopening or

reinstatement in a court of appeal or in the Supreme Court shall be made in writing to the Supreme Court within the time limits stated in the first paragraph.

The provisions of Sections 5, 6 and 8 apply to the application. (SFS 1988:1451)

Section 13

An application for restoration of expired time for an appeal to a district court or a court of appeal from such a determination as specified in Section 10a, shall be made in writing to the court of appeal. The provisions of Section 11 and Section 12, paragraphs 1 and 3, shall apply to such application.
(SFS 1988:1451)

Section 14

As for appeal from a decision by a court of appeal concerning relief for substantive defect or restoration of expired time the provisions of Chapters 54 and 56 concerning appeal from decisions in a case or matter instituted in a district court shall apply. (SFS 1988:1451)

Chapter 59

RELIEF FOR GRAVE PROCEDURAL ERRORS

Section 1

A judgment that has entered into final force shall be set aside for grave procedural errors on appeal by the person whose legal rights the judgment concerns:

1. if the case was entertained although a procedural impediment existed that a superior court is obliged to notice on its own volition,
2. if the judgment was given against someone who was not properly summoned nor did appear in the case, or if the rights of a person who was not a party to the action are adversely affected by the judgment,
3. if the judgment is so vague or incomplete that the court's adjudication on the merits cannot be ascertained therefrom, or
4. if another grave procedural error occurred in the course of the proceedings that can be assumed to have affected the outcome of the case.

An appeal for relief for a grave procedural error pursuant to paragraph 1, clause 4, founded on a circumstance not previously invoked to in the case shall be dismissed unless the appellant shows probable cause that he was unable to invoke the circumstance in the proceedings or otherwise had a valid excuse for failing to do so. (SFS 1994:1034)

Section 2

A person who wants to appeal for relief for a grave procedural error shall do so in writing. The appeal papers shall be presented to the court of appeal if the judgment was pronounced by a district court and otherwise to the Supreme Court.

If based on a circumstance of the kind referred to in Section 1, clause 1 or 4, the appeal papers shall be submitted within six months after the judgment entered into final force. If based on a circumstance of the kind referred to in Section 1, clause 2, the appeal papers shall be submitted within six months of the time when the appellant learned of the judgment. If the appellant learned of the judgment before it entered into final force, the time shall be computed from the day when the judgment entered into final force. (SFS 1994:1034)

Section 3

As for an appeal for relief for grave procedural errors and an appeal from a decision by a court of appeal in such a matter, the provisions of Chapters 52, 54, and 56 shall apply. However, concerning appeal for relief that shall to be brought directly to the Supreme Court, the provisions on leave to appeal do not apply.

The court may decide that, until otherwise ordered, the judgment may not be enforced.

If the judgment is set aside, except when the decision is based upon the court's lack of competence or otherwise should not have maintained the case, the court shall simultaneously decide that new proceedings occur in the court that rendered the judgment.

As to compensation for costs, the provisions on litigation costs apply. (SFS 1994:1034)

Section 4

The provisions in Sections 1 through 3 concerning judgments shall apply to court decisions. (SFS 1994:1034)

Section 5

If an appeal from a determination by an authority other than a district court should have been appealed to a district court or a court of appeal, a written appeal for a grave procedural error may be made to the court of appeal.

As to appeals pursuant to the first paragraph, the provisions of Section 1, Section 2, paragraph 2, and Section 3, shall apply. (SFS 1994:1034)

Section 6

An order of summary penalty consented to by the suspect shall be set aside upon appeal:
1. if the consent cannot be considered a valid voluntary declaration of intent;
2. if an error occurred during the processing of the matter of such a character that the order should be considered invalid; or
3. if the order is otherwise inconsistent with a statutory provision.

If an order for summary penalty is set aside, a more severe sanction for the same act may not thereafter be imposed. (SFS 1994:1034)

Section 7

The one who wishes to appeal against an order of summary penalty shall do so in writing. The appeal paper shall be submitted to the district court that had competence to entertain a prosecution for the offence.

The document must be received by the district court within one year after a step was taken against the suspect to enforce the order. If the order does not relate to any other penal sanction than conditional sentence, time is computed from the commencement of the probationary period. As regards the proceedings, the provisions in

Chapter 52, Sections 2, 3 and 5 through 12 shall apply. In that connection, provisions relating to the court of appeal apply to the district court instead. (SFS 1996:1462)

Section 8

As to appeals from district court decisions resulting from an appeal against a summary penalty, the provisions in Chapters 49 and 52 shall apply.

Decisions of the courts of appeal are not appealable. (SFS 1994:1034)

Section 9

In cases referred to in Sections 7 and 8, the court may decide that, until otherwise ordered, the order on summary penalty may not be executed.

Section 10

The provisions in Sections 6 through 9 shall apply also to appeals from orders on summary imposition of a breach-of-regulations fine that have been approved. In an appeal from such an order the public prosecutor is the suspect's opposing party. (SFS 1994:1034)