

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Justice, Finland**

### **Guardianship Service Act**

*(442/1999; amendments up to 637/2022 included)*

By decision of Parliament, the following is enacted:

#### **Chapter 1**

##### **General provisions**

###### **Section 1**

The objective of the guardianship service is to oversee the rights and interests of persons who cannot manage their economic and financial affairs themselves due to lack of legal capacity, illness, absence or another reason.

If the interests of a person need to be overseen in a matter other than an economic and financial one, the guardianship service is responsible for this to the extent provided below.

###### **Section 2**

*Person without legal capacity* means a person aged under 18 years (*minor*) and such a person aged 18 years or older (*adult*) who has been declared to lack legal capacity.

###### **Section 3**

A guardian shall manage the economic and financial affairs of a person without legal capacity and other affairs of such a person as specified in this Act.

A guardian may also be appointed in compliance with the provisions of this Act for a person who does not lack legal capacity but who still needs support in managing their affairs. If the appointment of a guardian is not sufficient to protect the best interests of such a person, the person's legal capacity may be restricted as provided below.

## **Chapter 2**

### **Guardians**

#### **Person acting as a guardian**

##### **Section 4**

The persons who have custody of a minor (*custodians*) are the minor's guardians, unless otherwise provided below. However, a court may, as provided in this chapter, dismiss a custodian from their duties as a guardian and, where necessary, appoint another person as the minor's guardian.

The guardian of an adult is the person who a court or the guardianship authority has appointed as the adult's guardian.

A court or the guardianship authority may appoint several guardians and, where necessary, decide on the division of duties among them.

##### **Section 5**

A person who is suitable for the duties and consents to the appointment may be appointed as a guardian. In the assessment of suitability, the skills and experience of the nominee and the nature and extent of the duties shall be taken into consideration, among other things.

##### **Section 6**

A person without legal capacity may not act as a guardian.

If the custodian of a child is a minor when the child is born, the custodian becomes the guardian of the child upon reaching the age of 18 years.

## **Preconditions for the appointment of a guardian**

### **Section 7**

If a minor or a person whose legal capacity has been restricted does not have a guardian because their guardian has died or for another reason, a court shall appoint a guardian for the person.

Where necessary, the guardianship authority shall file a petition with a district court for the appointment of a guardian.

### **Section 8**

A court may appoint a guardian for an adult who, due to illness, mental impairment or health impairment or for some other equivalent reason, is incapable of overseeing their interests or managing their personal or economic and financial affairs that need to be managed and would not be appropriately managed in any other way. Where necessary, the guardianship authority shall file a petition with a district court for the appointment of a guardian. (576/2008)

A guardian may be appointed if the person whose interests need to be overseen does not object to the appointment. If the person objects to the appointment of a guardian, a guardian may nonetheless be appointed if, taking into consideration the person's condition and need for a guardian, there is no sufficient cause for the objection.

The mandate of the guardian may be restricted to only cover a given legal transaction, matter or property.

### **Section 9**

A guardian may be appointed for a minor as provided in section 8 after the minor has reached the age of 17 years. In this event, the mandate of the guardian begins once the minor reaches the age of 18 years.

### **Section 10**

A court shall appoint a guardian if:

- 1) a deceased person has left an inheritance and the identity or whereabouts of the heir or beneficiary under a will are unknown, or if the heir or beneficiary otherwise cannot oversee their rights;
- 2) it is otherwise necessary to oversee the rights or manage the property of an absent person;
- 3) the recipient of property depends on a future event, or someone gets possession of and title to property only later, and a representative is needed to oversee the rights of the future owner or manage the property on their behalf; or
- 4) it is stipulated in a deed of gift or a will that property devolving on a beneficiary shall be entrusted to someone else than the guardian of the beneficiary for management, and appointing a guardian to manage the said property is in the best interests of the beneficiary.

### **Section 11 (198/2019)**

If a guardian is temporarily prevented from attending to their duties due to illness or for a reason referred to in section 32, subsections 2–5 or for another reason, a court may appoint a substitute guardian.

The provisions of this Act on a guardian also apply to a substitute guardian.

### **Section 12**

In addition to a court, the guardianship authority may also appoint a guardian:

- 1) for a person whose legal capacity has been restricted, if the person has no guardian due to the guardian's death or for another reason; and
- 2) for a person who is in need of guardianship under section 8 or 9.

In cases referred to in subsection 1, a precondition for the appointment of a guardian is that the person whose interests are to be overseen is capable of understanding the significance of the matter and that the person requests that a given person be appointed as the guardian.

Furthermore, in cases referred to in section 11, the guardianship authority may appoint a substitute guardian at the request of the guardian.

### **Section 13**

*Section 13 was repealed by Act 1135/2019.*

### **Status of the client**

### **Section 14**

The appointment of a guardian does not prevent the client from administering their property or from entering into legal transactions, unless otherwise provided by law.

### **Termination of the mandate of a guardian**

### **Section 15**

The appointment of a guardian is valid until further notice or for a period determined upon appointment. If the guardian has been appointed for a given task, the appointment is valid until the task has been performed.

If necessary, the court may make changes to the mandate of a guardian or to the period of validity of the appointment. (649/2007)

In addition to the court, the guardianship authority may, if necessary, make changes to the mandate of a guardian or to the period of validity of the appointment, if the guardian has been appointed under section 8 or 9. A further precondition is that the client is capable of understanding the significance of the matter and that the client requests, together with the guardian, that changes be made to the guardian's mandate or to the period of validity of the appointment. (649/2007)

## **Section 16**

A court shall dismiss a guardian from their duties if the guardian proves to be unfit or unsuitable for the duties or if there is another special reason for the dismissal.

A court shall also dismiss a guardian if the guardian so requests. However, a parent who has custody of their minor child may only be dismissed from the duties of a guardian at the parent's own request if there are special reasons for this. (649/2007)

In addition to a court, the guardianship authority may also dismiss another guardian than a parent who has custody of their minor child from their duties if the guardian so requests. On the same occasion, the guardianship authority may, on its own motion, order the guardian to continue to attend to their duties until a new guardian has been appointed. (649/2007)

## **Section 17**

The mandate of a guardian ends when:

- 1) the appointment of the guardian ceases to be valid as provided in section 15;
  - 2) the client dies;
  - 3) the guardian is dismissed from their duties or declared to lack legal capacity;
  - 4) the client reaches the age of 18 years, if the guardianship is based on the fact that the client is a minor; or
  - 5) a decision on guardianship has been made in a foreign state and it is recognised in Finland, if continuing the mandate of the guardian would be in conflict with the said decision.
- (780/2010)

The mandate of a substitute appointed for a guardian ends when the guardian and the substitute, after the impediment has ceased to exist, together notify the guardianship authority of this. If the guardian and the substitute disagree on whether the mandate of the substitute has ended, a district court shall decide the matter upon petition of either of the parties. (1135/2019)

Upon petition, a court shall order that the mandate of a guardian be terminated if the client no longer needs a guardian. A court may also order that the mandate of a guardian be terminated if the client's habitual residence has changed to a foreign state and the purpose for which the guardian was appointed can no longer be fulfilled through guardianship. (780/2010)

In addition to a court, the guardianship authority may also order that the mandate of a guardian be terminated on the grounds mentioned in subsection 3, if the guardian has been appointed under section 8 or 9. A further precondition is that the client is capable of understanding the significance of the matter and that the client, together with the guardian, requests that the mandate of the guardian be terminated. (780/2010)

*Subsection 5 was repealed by Act 122/2011.*

## **Section 17a**

*Section 17a was repealed by Act 1135/2019.*

## **Section 17b (122/2011)**

If a guardian has been appointed under section 8 or 9, the guardianship authority shall, during the fourth calendar year after the appointment of the guardian, on its own motion, review the need to continue the guardianship and, if necessary, file a petition with a district court for the termination of the mandate of the guardian. The review shall be conducted every four calendar years. A review need not be conducted if it is evident, based on the grounds for appointing the guardian or for some other reason, that a guardian is needed on a permanent basis.

The review is conducted on the basis of the information on the client's situation that the guardianship authority has received in connection with an audit or otherwise. The guardian shall be heard in connection with the review. The client shall be heard if it can be assumed that the client understands the significance of the matter and if the review has revealed circumstances indicating that it may be necessary to make changes to the appointment of the guardian.

## **Chapter 3**

### **Restriction of legal capacity**

#### **Section 18**

If an adult is incapable of managing their economic and financial affairs and if the person's financial position, livelihood or other important interests are consequently at risk and the appointment of a guardian is not alone sufficient to safeguard their interests, a court may restrict the person's legal capacity by deciding that:

- 1) the person may only enter into given legal transactions or administer given property together with the guardian;
- 2) the person has no capacity to enter into given legal transactions or right to administer given property; or
- 3) the person is declared to lack legal capacity.

No one shall be declared to lack legal capacity if the other measures mentioned in subsection 1 are sufficient to safeguard the person's interests.

The legal capacity of a person shall not, in any case, be restricted more than what is necessary to protect the person's interests. The restriction shall not be extended to cover legal transactions that a person without legal capacity has, under the law, capacity to enter into. However, for serious reasons, a court may restrict the right of a person to decide on the income that the person earns by working after the issue of the decision.

#### **Section 19**

The legal capacity of a minor may be restricted in the manner provided in section 18 after the minor has reached the age of 17 years. In this event, the restriction takes effect when the minor reaches the age of 18 years.

## **Section 20**

When a court makes a decision to restrict the legal capacity of a person, the court shall, on the same occasion, appoint a guardian for that person, if necessary.

## **Section 21**

If a person has entered into a legal transaction that they had no capacity to enter into due to a restriction of their legal capacity, the provisions of sections 26–28 apply to the binding effect of the legal transaction, the restitution of payments and the compensation for the value of the payment or for damage.

## **Section 22**

A decision by which a person's legal capacity has been restricted is valid until further notice or for the period determined in the decision.

The restriction or its period of validity may be amended if changes in circumstances or other reasons so require. The restriction shall be revoked if it is no longer necessary.

The provisions of section 17b also apply in cases where the legal capacity of a person has been restricted. (122/2011)

## **Chapter 4**

### **Status of persons without legal capacity**

## **Section 23**

A person without legal capacity does not have the right to administer their property or enter into contracts or other legal transactions unless otherwise provided by law.

Unless otherwise provided by law, a person who has been declared to lack legal capacity may decide on matters concerning their person, if the person is capable of understanding the significance of the matter.

## **Section 24**

A person without legal capacity may enter into legal transactions that, considering the circumstances, are customary and of minor significance.

A gift or a promise of a gift of movable property given to a person without legal capacity without the guardian's contribution is binding on the donor if the person without legal capacity has understood the significance of the matter.

## **Section 25**

A person without legal capacity has the right to decide on the income that the person has earned by working while they have been without legal capacity and on property placed under their administration by the guardian in accordance with section 38 of this Act. Furthermore, a person without legal capacity has the right to decide on any return on the property referred to above and on what has been substituted for such property.

If a person without legal capacity exercises this right in a manner that is clearly contrary to their best interests or if there is an evident risk of the same, the guardian may assume the management of the property referred to in subsection 1 to the extent that this is necessary to protect the interests of the person without legal capacity. If the measure concerns the earned income of the person without legal capacity, the consent of the guardianship authority shall be obtained for the measure.

## **Section 26**

A legal transaction that a person without legal capacity did not have the right to enter into is not binding on the person, unless their guardian has given consent to the transaction.

A legal transaction entered into by a person without legal capacity becomes binding on the person if the person themselves, after gaining full legal capacity, or their guardian approves it.

The provisions of the Code of Inheritance apply to the right of a person without legal capacity to make a will.

## **Section 27**

If a person without legal capacity has entered into a legal transaction without the required consent of the guardian, the party with whom the contract was concluded has the right to withdraw from the contract as long as it has not been approved or appropriately fulfilled.

However, if the party with whom the legal transaction was entered into knew that the other party was lacking legal capacity, the first mentioned party does not have the right to withdraw from the contract during the period agreed for acquiring the consent or the reasonable time needed for obtaining the consent. Nevertheless, this party has the right to withdraw from the legal transaction in accordance with subsection 1 if they had reason to assume that the person without legal capacity had, regardless of the lack of legal capacity, the right to enter into the legal transaction.

The person without legal capacity or their guardian shall be notified of the withdrawal.

## **Section 28**

If a legal transaction that a person without legal capacity has entered into without the required consent does not become binding, both parties shall restore what they have received under the legal transaction or, if this is not possible, compensate for its value. However, a person without legal capacity is not liable for compensation in excess of what has been used for the person's reasonable maintenance or what the person otherwise has gained.

If both parties to a legal transaction lack legal capacity and one party cannot restore what they have received under the transaction, this party shall pay as compensation an amount that can be deemed reasonable for both parties. When assessing the amount of compensation, consideration shall be given to the status of the parties when the legal transaction was entered into, the subsequent circumstances and other factors.

If a person without legal capacity has entered into a legal transaction by committing an intentional act punishable under the law, the compensation for the resulting damage is subject to the provisions of the Tort Liability Act (412/1974) regardless of whether the person was criminally liable and notwithstanding the provisions of subsections 1 and 2.

## **Chapter 5**

### **Status and duties of a guardian**

#### **Representation**

##### **Section 29**

A guardian is competent to represent the client in legal transactions concerning the client's property and economic and financial affairs, unless a court has ordered otherwise upon appointing the guardian or unless otherwise provided.

If a court has so ordered, the guardian also has the right to represent the client in such matters concerning the client's person the significance of which the client is not capable of understanding. However, the guardian does not, under such a court order, have the power to represent the client in matters subject to provisions of law to the contrary.

The guardian is not competent, on behalf of the client, to give consent to a marriage or adoption, acknowledge paternity, accept an acknowledgement of paternity, make or revoke a will, or represent the client in any other personal matter comparable to these.

Provisions on the guardian's right to exercise the client's right of action before a court or another authority are laid down separately.

##### **Section 30**

If a client has several guardians, they shall perform the duties of a guardian together, unless the court has decided on the division of duties among the guardians.

If one of the guardians cannot participate in making a decision due to a journey, illness or another reason and a delay in making the decision would be harmful, the consent of that guardian is not required. However, a decision on a matter of considerable significance to the client may only be made by the guardians together, unless the best interests of the client manifestly require otherwise.

If the guardians disagree on a matter that they shall decide together and a delay in making the decision would be harmful, a guardian may request the guardianship authority to issue a decision on whose opinion is to prevail. (1135/2019)

### **Section 31**

A receivable that is part of property being managed by a guardian may only be repaid to the guardian or to an account of the client designated by the guardian. However, the repayment is valid even if made to the client, if the debtor did not know and, considering the circumstances, could not have been expected to know that the repayment should have been made to the guardian.

If the client has an account with a credit institution, the guardian shall notify the institution as to who has the right to withdraw funds from the account.

### **Section 32 (649/2007)**

The guardian shall not donate the client's property.

The guardian shall not represent the client if the opposing party is the guardian themselves, the spouse or child of the guardian or a person represented by the guardian. However, if siblings have the same guardian, this guardian may represent all of the siblings in the distribution of an estate, provided that their interests are not in conflict with each other due to claims made at the distribution or other related circumstances.

A guardian other than a parent who has custody of their minor child shall not represent the client if the opposing party is:

- 1) the spouse of the guardian's child or a child of the guardian's spouse or the spouse of this child;
- 2) a grandchild, sibling, parent or grandparent of the guardian or of the guardian's spouse, or the spouse of any of the said persons; or
- 3) a child of the guardian's sibling or a sibling of the guardian's parent.

In subsections 2 and 3, *spouse* means a married spouse and a person living in a joint household in marriage-like circumstances or in another intimate relationship with the person concerned. Step-relatives are equated with corresponding relatives.

Furthermore, the guardian shall not represent the client when the interests of the guardian and the client may conflict in the matter for a reason other than one referred to in subsection 2 or 3.

### **Section 33**

A guardian appointed under section 10 for an absent person shall not sell the person's property before three years have elapsed since information concerning the person was last received, unless the sale is necessary to repay a debt, settle an estate or prevent damage to property or for another similar reason. A guardian appointed under section 10 to oversee the rights of a future owner shall not sell property entrusted to them, unless there is a reason mentioned above for this.

A guardian referred to in subsection 1 may represent an heir or a beneficiary under a will in a matter concerning the service or contestation of a will, but the guardian is not competent to interrupt the limitation of the right of the heir or beneficiary on their behalf.

Legal transactions that a guardian appointed to oversee the rights of an absent person or a future owner has entered into under the appointment are valid even if the property devolves on someone else than the person whom the guardian was appointed to represent.

### **Section 34**

Unless otherwise provided by law, a guardian does not have the right to do the following on behalf of the client without a permit of the guardianship authority:

- 1) to convey or, against payment, acquire immovable property or such a leasehold or another right of use to land and buildings that can be transferred to a third party without hearing the landowner;
- 2) to pledge property as security or otherwise raise a lien over property;

- 3) to transfer immovable property or other property referred to in paragraph 1 for the use of another person for a period longer than five years or for a period longer than one year from the date on which the client reaches the age of 18 years;
- 4) to take out a loan other than a government-guaranteed student loan or assume liability for a bill of exchange or a debt of another person;
- 5) to begin to pursue a business in the name of the client;
- 6) to enter into an agreement on the establishment of a general or limited partnership or on the accession to such a partnership;
- 7) to renounce an inheritance or transfer the client's share in a death estate to another;
- 8) to enter into an agreement on the joint administration of a death estate;
- 9) to enter into an agreement on the distribution or separation of matrimonial property or on the distribution of an estate that is to be carried out without an estate distributor referred to in chapter 23 of the Code of Inheritance; (32/2011)
- 10) to convey or, against payment, acquire a right of occupancy referred to in the Right-of-Occupancy Housing Act (650/1990) or shares or participations entitling to the possession of an apartment or another part of a building or real estate, with the exception of the shares or participations referred to in paragraph 13, subparagraph g; (649/2007)
- 11) to transfer, by a fixed-term agreement, the right to use an apartment or another part of a building or real estate possessed under a right of occupancy, shares or participations referred to in paragraph 10 for a period longer than five years or for a period longer than one year from the date on which the client reaches the age of 18 years; (649/2007)
- 12) to sell standing trees or have trees harvested for the purpose of sale, to extract stone, gravel, sand, peat or soil from the client's lands for the purpose of sale or to convey a right to extract these, unless this is based on the property management plan approved by the guardianship authority; or

13) to grant a monetary loan or, against payment, acquire financial instruments or participations in corporations referred to in chapter 1, section 14 of the Act on Investment Services (747/2012), with the exception of:

a) deposit of funds in a credit institution licensed in a state of the European Economic Area;

b) acquisition of bonds issued by the State, the Province of Åland, a local authority or a joint municipal authority;

c) acquisition of securities traded in a stock exchange, on a regulated market or in a multilateral trading facility referred to in chapter 1, section 2 of the Act on Trading in Financial Instruments (1070/2017);

d) acquisition of units of common funds referred to in the UCITS Directive mentioned in chapter 1, section 2, subsection 1, paragraph 16 of the Act on Common Funds and registered in Finland, or units of such foreign undertakings for collective investment in transferable securities referred to in chapter 23, section 1, subsection 1 of the said Act that may market their units in Finland under subsection 2 of the said section; (230/2019)

e) acquisition of units of such alternative investment funds referred to in the Act on Alternative Investment Funds Managers (162/2014) at least three quarters of the capital of which is always, under its rules, invested in deposits, bonds and securities referred to in subparagraphs a, b and c and the units of which can be offered to non-professional clients under chapter 13 of the said Act;

f) acquisition of such financial instruments specified by decree of the Ministry of Justice that are equated with the financial instruments referred to in subparagraphs a–e;

g) acquisition of such shares or participations that mainly confer to their holder the right to receive ordinary household goods or services, if the participation does not render the holder personally liable for the debts of the corporation. (1094/2017)

The permit shall be applied for from the guardianship authority. If a legal transaction or measure is taken on behalf of several persons under guardianship, some of whom have a municipality of residence in Åland, a permit for all of them may be applied for from either of the authorities that are competent under section 84, subsections 1 and 2. In this case, the guardianship authority that has dealt with the matter shall notify the authority that is competent with regard to the other persons under guardianship of its decision. The guardianship authority shall give the client an opportunity to be heard when deciding on a permit matter, if the client's opinion is not indicated in the application documents in a reliable manner or if this is otherwise necessary to protect the interests of the client or to resolve the matter. However, an opportunity to be heard need not be given if the client is a minor who has not reached the age of 15 years. In other respects, provisions on hearing a party are laid down in the Administrative Procedure Act (434/2003). (1135/2019)

If a guardian has been granted a permit to undertake an activity or a measure referred to in subsection 1, paragraph 5 or 6, this gives the guardian the right to enter into the legal transactions required by the nature of the business or partnership in question notwithstanding the provisions of subsection 1.

*The Right-of-Occupancy Act 650/1990 was repealed by Act 393/2021.*

## **Section 35**

The guardianship authority may grant a permit referred to in section 34 if the legal transaction or measure in question is in the best interests of the client. In this event, the provisions of sections 37–41 on the management of property shall be observed.

## **Section 36**

A legal transaction that the guardian was not competent to enter into is not binding on the client.

A legal transaction entered into by the guardian without the required permit is not binding on the client, unless the guardianship authority from whom the permit should have been applied for subsequently approves the transaction at the guardian's request. In this event, the provisions of section 27, subsection 2 apply, where appropriate, to the right of the contracting party to withdraw from the legal transaction.

If a legal transaction entered into by the guardian is not binding under subsection 1, the provisions of section 25 of the Contracts Act (228/1929) apply, where appropriate, to the liability of the guardian to compensate for damage caused to the contracting party.

## **Property management**

### **Section 37**

The guardian shall manage the client's property so that the property and any return on it can be used for the client's benefit and for satisfying the client's personal needs. When doing so, the guardian shall conscientiously look after the client's rights and promote their best interests.

The guardian shall take possession of the client's property that the guardian is to manage to the extent that this is necessary to protect the client's interests. In doing so, the guardian has the right to receive executive assistance as provided in chapter 9, section 1 of the Police Act (872/2011), if necessary. However, such property that the client may freely administer shall not be taken into possession against the client's will. (891/2011)

The guardian may apply for a public summons to find out about the client's debts as provided in the Act on Public Summons (729/2003). (730/2003)

### **Section 38**

The client shall be left with the property that they need for their personal use. A reasonable amount of disposable funds, in view of the client's needs and other circumstances, shall be placed under the client's administration. The guardian may also place other property under the client's administration, if this is in the client's best interests.

If the client wishes to give a gift that, in view of the circumstances, is customary and of minor financial significance, the guardian shall ensure that the client's wish can be fulfilled.

### **Section 39**

The guardian shall retain the property that the client needs during guardianship or later for housing or for pursuing a business or that is otherwise of special value to the client.

Other property, which is not to be used for the maintenance or other needs of the client, shall be invested so that there is sufficient certainty of its preservation and so that it yields a reasonable return.

At the request of the client, the guardian shall provide the client with information on the client's financial position and on the property management measures that the guardian has taken.

### **Section 40**

The guardianship authority may order that the guardian shall draw up a management plan to establish guidelines on the management and use of property and present it for approval to the guardianship authority, if this is to be deemed necessary in view of the nature and amount of property and other circumstances. The management plan shall be drawn up taking into consideration the provisions of sections 37–39 on the management of property.

The management plan may be amended or supplemented, if necessary.

### **Section 41**

If a person, when giving property to another person as a gift or under a will, has made stipulations on the management of the property, the said stipulations shall be complied with notwithstanding the provisions of this chapter.

However, a court may decide, upon petition of the guardian, that the property shall be managed in accordance with the provisions of this Act, if it is evident that, due to a change in circumstances or for another reason, compliance with the stipulations on the management of the property would not fulfil the purpose of the donor or testator.

## **Caring for the client**

### **Section 42**

A guardian appointed for an adult shall ensure that the client is provided with the treatment, care and rehabilitation that are to be deemed appropriate in view of the client's need for care, circumstances and wishes.

## **Hearing the client**

### **Section 43**

Before the guardian makes a decision in a matter falling within their mandate, the guardian shall ask the client's opinion, if the matter is to be deemed important for the client and the hearing can take place without considerable difficulty.

However, hearing the client is not necessary if the client is not capable of understanding the significance of the matter.

If the client is a minor, the opinion of the person who has custody of the minor shall be asked in the manner referred to in subsection 1.

## **Guardian's fee and reimbursement of costs**

### **Section 44**

A parent of a minor and a custodian of a minor who is the minor's guardian have the right to receive reimbursement for the necessary costs from the minor's assets.

A guardian of an adult and a guardian appointed for a minor other than one referred to in subsection 1 have the right to receive reimbursement for the necessary costs from the client's assets and a fee that is reasonable in view of the nature and extent of the mandate and the client's assets. In addition to the fee, the guardian has the right to receive a special remuneration for such a necessary task performed for the benefit of the client that requires special professional

skills or a considerable amount of work, if the performance of the task by the guardian has been in the best interests of the client. (122/2011)

A guardian does not have the right to the fee referred to in subsection 2 if the client's income during the period for which the fee is charged, after deducting the withholding taxes or advance taxes and the statutory contributions for employees, is equal to or less than the annual level corresponding to the basic amount of social assistance referred to in section 9, subsection 1, paragraph 1 of the Act on Social Assistance (1412/1997) adjusted by the national pension index referred to in the Act on the National Pension Index (456/2001). The client's income consists of all monetary income, such as wages, pensions and other earned income, income from interests, rents, dividends and other capital income, as well as social benefits. (122/2011)

Notwithstanding subsection 3, a guardian has the right to the fee referred to in subsection 2 if the current value of the client's assets, less the client's debts, exceeds more than three times the annual level corresponding to the basic amount of social assistance referred to in subsection 3. When determining the value of the client's assets, a residential apartment in the client's personal use and any debt associated with it are not taken into account. (122/2011)

Further provisions on the amount of the fee are issued by government decree. (122/2011)

## **Liability for damages**

### **Section 45**

A guardian is liable to compensate for any damage that the guardian has, intentionally or through negligence, caused to the client when performing their duties.

The adjustment of damages and the allocation of liability for damages between two or more liable persons are governed by the provisions of chapters 2 and 6 of the Tort Liability Act (412/1974). If a public guardian referred to in the Act on Public Guardianship Services (443/1999) has caused the damage, the provisions of chapters 3 and 4 of the Tort Liability Act also apply to the liability for damages.

The client is not liable, under chapter 3, section 1, subsection 3 of the Tort Liability Act, to compensate for damage caused by the guardian while acting on behalf of the client. (649/2007)

*The Act on Public Guardianship Services 443/1999 was repealed by Act 575/2008.*

## **Chapter 6**

### **Supervision of the activities of guardians**

#### **Supervisory authority**

#### **Section 46 (1135/2019)**

The guardianship authority shall supervise the activities of guardians.

The guardianship authority's obligation to supervise the activities of guardians also applies in cases where a person for whom a guardian has been appointed in a foreign state becomes habitually resident in Finland. However, the guardianship authority may, on its own motion or at the request of a guardian, decide that supervision is not arranged in Finland or that supervision is only arranged regarding certain duties of the guardian, if the guardian's activities are supervised in a foreign state and if the best interests of the client do not require that supervision be arranged in Finland.

#### **Section 46a (1135/2019)**

*Section 46a was repealed by Act 1135/2019.*

#### **Section 47 (1135/2019)**

The supervision of a guardian may be transferred to another guardianship authority referred to in section 84, subsections 1 and 2 if information on the guardianship has been entered in the Register of Guardianship Affairs and the person whose interests are to be overseen has a municipality of residence within the area of operation of the latter guardianship authority or if the transfer is otherwise necessary for supervision. Before the supervision is transferred, the guardian and the guardianship authority to whom the supervision is to be transferred shall be heard.

A decision on the transfer of supervision is not subject to appeal.

## **Section 47a (1135/2019)**

*Section 47a was repealed by Act 1135/2019.*

## **Section 47b (780/2010)**

The guardianship authority may, upon application or on its own motion, decide that the supervision of a guardian be terminated if the client's habitual residence has changed to a foreign state and:

- 1) supervision of the guardian's activities is arranged there; or
- 2) supervision carried out in Finland can no longer fulfil the purpose of supervision.

(1135/2019)

Information on a decision to terminate supervision shall be entered in the Register of Guardianship Affairs.

## **Property inventory**

### **Section 48**

Within three months of the commencement of their duties, a guardian shall present the guardianship authority with an inventory of the client's assets and debts that shall be managed by the guardian. The inventory shall also specify the property placed under the client's administration under section 38, subsection 1. If the client later receives property that shall be managed by the guardian, an inventory of the received property shall be provided within one month of the acquisition. However, the obligation to present an inventory does not apply to such recurring payments that the client receives based on a right recorded in the inventory.

If the client becomes a party to a death estate, the guardian shall submit a copy of the deed of estate inventory to the guardianship authority within one month of the estate inventory.

The provisions of subsection 1 do not apply to the parent of a minor who acts as the guardian, if the minor has only little property. Upon application of the guardian or on its own motion, the

guardianship authority may, after hearing the guardian, extend the time limit referred to in subsection 1, if this is necessary due to the amount of the property or for some other reason. (122/2011)

## **Section 49**

The guardian shall, in the inventory referred to in section 48, declare that the information provided by them is correct and that they have not deliberately left anything out. A court may oblige the guardian to attest to their declaration in the court under oath or affirmation, if the guardianship authority so requests.

## **Accountability**

### **Section 50**

A guardian whose duties involve management of property shall keep accounts of the client's assets and debts and on the transactions made during the accounting period.

A guardian appointed to duties that do not involve management of property shall keep accounts that will enable the guardian to report on the measures they have taken while performing the duties.

### **Section 51**

A guardian referred to in section 50, subsection 1 shall give a statement of accounts to the guardianship authority once a year (*annual statement*). The guardianship authority may decide that the accounting period is some other period of one year than a calendar year, if this is appropriate in view of the management of the property and accounting or auditing.

The annual statement shall be given within three months of the end of the accounting period. If the guardianship mandate has begun in the latter half of the accounting period, the guardianship authority may, upon application of the guardian or on its own motion after hearing the guardian, decide that the statement shall be given in connection with the next annual statement. (122/2011)

If the guardian is not or has not been able to give an annual statement within the specified time limit due to illness or the extent of their mandate or for another similar reason, the guardianship authority may, upon application, extend the time limit.

The guardian is not obliged to give an annual statement concerning such guardianship of a minor that does not need to be entered in the Register of Guardianship Affairs.

## **Section 52**

A guardian whose mandate ends or is restricted shall without delay give to the guardianship authority a statement of accounts concerning the management of the property that will no longer be administered by the guardian for the period that has not yet been accounted for (*final statement*). However, the guardian is not obliged to give a final statement concerning such guardianship of a minor that does not need to be entered in the Register of Guardianship Affairs.

## **Section 53 (122/2011)**

If a property inventory or an annual statement indicates that the client has no property or that there is only little property that is being managed by the guardian, the guardianship authority may, upon application of the guardian or on its own motion after hearing the guardian, exempt the guardian from the duty to give an annual statement for a fixed period or until further notice, or decide that the accounting period shall be longer than one year.

An exemption from the duty to give an annual statement or an extension to the accounting period may also be granted if the property is of such a nature that the best interests of the client do not require that a statement of accounts be given every year, or if the preservation of the property has been secured by investing property so that it cannot be withdrawn or transferred elsewhere under a condition included in the investment agreement and the conditions cannot be changed without the consent of the guardianship authority. The provisions of this Act on a permit granted by the guardianship authority apply to the consent of the guardianship authority.

The guardianship authority may amend its decision referred to above if this is justified because supervision is considered necessary.

## **Section 54**

When an annual statement or a final statement is given, any necessary receipts related to it shall also be delivered for audit. After the audit, the receipts shall be returned to the guardian.

The guardian shall retain the receipts related to the statement until the time limit for bringing an action referred to in section 61, subsection 1 has expired or, if an action has been brought, until there is a final decision on the matter. After this, the client, the client's legal successors or the new guardian have the right to obtain the receipts.

## **Section 55**

The annual statement and the final statement shall indicate the client's assets and debts at the beginning and at the end of the accounting period, any changes to them during the accounting period, the significant legal transactions entered into on behalf of the client, and any other corresponding measures that the guardian has taken while managing the property. This information shall be presented so that the guardianship authority may, based on the statement, supervise the management of the property and compliance with the management plan.

The statement shall also specify the property that the guardian has placed under the client's administration during the accounting period.

If the guardian is the client's parent, spouse or child or another person close to the client, the guardianship authority may, upon application of the guardian or on its own motion after hearing the guardian, decide that the statement concerning the property being managed or a specific part of it may be of a general nature, if this is deemed sufficient in view of the nature of the property being managed. In any case, the statement shall indicate any changes to the property that have occurred during the accounting period. (122/2011)

## **Section 56**

After having received an annual statement or a final statement, the guardianship authority shall without delay, to the extent required by good auditing practice, audit how the property has been managed, whether the client has been given a reasonable amount of disposable funds, whether

the amount of the guardian's fee is justified and whether the statement has been drawn up correctly. (122/2011)

The guardianship authority may conduct a more general audit than what is provided in subsection 1 if there is reason to assume, based on the amount or nature of the property or other circumstances, that this does not compromise the best interests of the client. However, the first statement given by a guardian shall be audited as provided in subsection 1. (122/2011)

Upon request, the guardian shall provide the guardianship authority with all necessary information, receipts and documents pertaining to their duties and present the securities being managed by them.

### **Section 56a (122/2011)**

Damage caused to the client as a consequence of the fact that such a circumstance has not been discovered in an audit referred to in section 56, subsection 2 that should have been discovered if the audit had been conducted in accordance with section 56, subsection 1 shall be compensated from state funds.

### **Enforcement measures available to the guardianship authority**

#### **Section 57**

If a guardian fails to provide an appropriate statement of accounts, inventory, receipt or other requested information or fails to draw up a management plan that the guardianship authority has ordered to be drawn up, the guardianship authority may order the guardian to carry out the neglected measure and reinforce the decision by imposing a conditional fine or a threat that the neglected measure will be carried out at the expense of the guardian (*enforced compliance*).

When the guardianship authority orders that the threat of enforced compliance be executed, it may oblige the guardian to provide, under threat of a fine, the party carrying out the measure with the receipts and documents necessary for the performance of the task.

In other respects, the provisions of the Act on Conditional Fines (1113/1990) apply to the conditional fine and to the threat of enforced compliance.

## **Safeguarding the best interests of the client**

### **Section 58**

If safeguarding the client's best interests requires a measure that the guardian has failed to take, a court may appoint another guardian to take the measure upon petition of the guardianship authority, the client or another person referred to in section 72, subsection 1 and 2. Similarly, a court may appoint another guardian if there is reason to bring an action against the guardian before the guardian's mandate has ended.

## **Measures when the mandate of a guardian ends**

### **Section 59**

When the mandate of a guardian has ended, the guardian shall, without delay, hand over the property being managed by them to the client, a new guardian or another person entitled to this.

If the mandate of a guardian ends due to the death of the client and the property cannot be handed over to the joint administration of the parties to the death estate without delay, the guardian may hand over the property to such a party to the estate who may take care of the property of the estate as provided in chapter 18, section 3 of the Code of Inheritance. No later than seven days before the property is handed over, the guardian shall notify all those parties to the estate whose identity and whereabouts are known of the handing over of the property.  
(122/2011)

### **Section 60**

When the mandate of a guardian has ended and the guardianship authority has audited the final statement, the guardianship authority shall notify its remarks concerning the statement and provide a copy of the statement to the person who has the right to receive the property. Upon request, that person has the right of access to the guardian's receipts related to the annual statements and the final statement.

The guardian may be obliged, under threat of a fine, to present the receipts as provided in section 57.

## **Section 61 (730/2003)**

A claim for damages that is based on the activities of a guardian becomes time-barred within three years of the date on which the guardianship authority, in accordance with section 60, provided the documents concerning guardianship to the party having the right of access to them. However, if the guardian is one referred to in section 50, subsection 2, the limitation period is counted from the date on which the guardian gave the report referred to in that provision to the party entitled to receive it.

If the grounds for the damages are not indicated in the statement of accounts or if the guardian has caused damage to the client in other activities than in the performance of guardianship duties, the provisions of section 7 of the Act on the Statute of Limitations on Debt (728/2003) apply to the limitation periods for claims for damages. However, such claims for damages become time-barred at the earliest three years from the date on which the client reached the age of 18 years or on which a guardian was no longer appointed for the client.

## **Section 62**

An action for damages that is based on circumstances appearing in a statement of accounts may not be brought if the person entitled to receive the statement has, after receiving the documents referred to in section 60, notified in writing that they accept the activities of the guardian or otherwise declared in writing that they will not claim any compensation.

## **Section 63**

If a guardian has died, the provisions of this chapter on guardians apply, as appropriate, to the obligations of the parties to the guardian's death estate, the estate administrator and the bankruptcy estate.

The person in charge of the administration of the death estate shall without delay notify the guardianship authority of the death of the guardian and manage the client's property for as long as it remains in the possession of the estate.

However, the provisions of subsections 1 and 2 do not apply if a public guardian has acted as the guardian.

## **Chapter 7**

### **Registration of guardianship**

#### **Section 64 (1135/2019)**

Provisions on the Register of Guardianship Affairs maintained by the Digital and Population Data Services Agency and the State Department of Åland are laid down in the Act on Certain Personal Data Files of the Digital and Population Data Services Agency (1156/2019). Information is stored in the Register for the purpose of supervising the activities of guardians referred to in this Act and attorneys referred to in the Act on the Continuing Power of Attorney (648/2007) and for the purpose of safeguarding the rights of third parties.

#### **Section 65**

Information on guardianship or a restriction of legal capacity shall be entered in the Register of Guardianship Affairs when:

- 1) a guardian is appointed for an adult;
- 2) the legal capacity of an adult is restricted;
- 3) a person other than a parent of a minor is appointed as the guardian of the minor;
- 4) a guardian is appointed for a minor under section 9 or the legal capacity of a minor is restricted under section 19;
- 5) a guardian is appointed for an absent person or a future owner;
- 6) a person for whom a guardian has been appointed in a foreign state becomes habitually resident in Finland, unless it has been decided that the supervision of the guardian's activities will not be arranged in Finland.

(780/2010)

However, information on guardianship shall not be entered in the Register of Guardianship Affairs if the mandate of the guardian does not involve management of property or supervision of someone's rights in an undistributed estate.

When a court makes a decision due to which information on guardianship shall be entered in the Register of Guardianship Affairs or when its decision results in a change of a state of affairs recorded in the Register, the court shall notify the guardianship authority of this. If the decision is to be complied with only after it has become final, the notification shall, however, be submitted only after the decision has become final. In the latter case, the notification shall be submitted by the court where the matter was last considered. (1135/2019)

*Subsection 4 was repealed by Act 1135/2019.*

### **Section 66 (122/2011)**

Information on guardianship shall also be entered in the Register of Guardianship Affairs when the guardianship authority is informed of the following:

- 1) a minor is a party to a death estate and the minor's share of the estate's assets exceeds EUR 20,000 before deducting the debts of the deceased person or the estate; or
- 2) a minor has property that is being managed by a guardian and its amount exceeds EUR 20,000 before deducting the minor's debts.

Information on the guardianship of a minor shall be entered in the Register of Guardianship Affairs even if the amount of the property or the share of the estate's assets is smaller than the amount referred to in subsection 1, if there are special reasons for this.

### **Section 66a (122/2011)**

Information on the guardianship of a minor entered in the Register of Guardianship Affairs under section 66 may be removed from the Register if the value of the minor's property or share in the estate referred to in section 66, subsection 1 has permanently declined to EUR 15,000 or less. However, information on the guardianship may not be removed from the Register if the value of the property has declined due to such measures taken by the guardian that are not in the best

interests of the minor or if there are other special reasons for keeping the information on the guardianship in the Register.

### **Section 67 (1135/2019)**

*Section 67 was repealed by Act 1135/2019.*

### **Section 68 (1135/2019)**

*Section 68 was repealed by Act 1135/2019.*

## **Chapter 8**

### **Provisions on judicial proceedings**

#### **Section 69**

A matter concerning the appointment of a guardian or the restriction of a person's legal capacity is instituted in a district court by way of petition.

#### **Section 70**

Unless otherwise provided below, provisions on the competent court in matters concerning the appointment of a guardian or the restriction of a person's legal capacity are laid down in chapter 10 of the Code of Judicial Procedure. (158/2009)

A matter concerning the appointment of a guardian to oversee the interests of an absent person in a death estate shall be instituted in the district court that is competent in matters concerning the estate. If the appointment of a guardian is otherwise petitioned for under section 10 of this Act, the matter shall be instituted in the district court in whose judicial district the absent person has property or in whose judicial district the need for guardianship has otherwise emerged.

If no district court in Finland can be deemed competent to deal with the matter, the matter may be instituted in the Helsinki District Court.

## **Section 71**

If the appointment of a guardian is sought for the purposes of judicial proceedings, the matter may also be instituted in the district court in which the judicial proceedings are or will be pending.

## **Section 72**

A petition for the appointment of a guardian or for the restriction of a person's legal capacity may be filed by the guardianship authority or the person whose interests are to be overseen or this person's guardian, parent, spouse or child or another person close to this person.

A matter concerning the appointment of a guardian for a minor may also be instituted by the custodian of the minor and by a wellbeing services county. (637/2022)

If a guardian is needed to oversee the rights of an absent person or a future owner in a death estate, the estate administrator, another person taking care of the estate, the estate distributor or a party to the death estate shall file a petition with a district court for the appointment of a guardian. The estate administrator or the estate distributor may also otherwise file a petition if the appointment of a guardian is necessary to conduct the distribution of matrimonial assets or a death estate. If the affairs of an absent person need to be managed otherwise, the petition may be filed, in addition to the persons referred to in subsection 1, by a person whose interest or right the matter concerns.

## **Section 73**

In a matter concerning the appointment of a guardian for a minor, the minor themselves, provided that they have reached the age of fifteen years, and the custodian of the minor shall be given an opportunity to be heard.

In a matter concerning the appointment of a guardian for an adult, the person whose interests are to be overseen and, unless it is manifestly unnecessary considering the circumstances, the person's spouse shall be given an opportunity to be heard.

If the person whose interests are to be overseen has given a continuing power of attorney and the appointment of a guardian may cause that the continuing power of attorney ceases to be in force in full or in part, the attorney shall be given an opportunity to be heard in the matter. (649/2007)

An opportunity to be heard need not, however, be given if a notice of the opportunity to be heard should be served on the person concerned by way of public notice referred to in chapter 11, section 9 of the Code of Judicial Procedure. (649/2007)

If the service of a notice of the opportunity to be heard could not be effected on the person whose interests are to be overseen due to the person's condition, the service shall be effected on a guardian appointed under section 82. However, if appointing a guardian for judicial proceedings is not necessary in view of the legal protection of the person to be heard, the hearing may be waived. (649/2007)

#### **Section 74**

In a matter concerning the restriction of a person's legal capacity, the court shall hear the person whose interests are to be overseen in person. However, the matter can be decided without personally hearing the person if the petition is immediately rejected as groundless or if hearing the person is impossible because of the person's condition or if the hearing would cause undue inconvenience to that person.

*Subsection 2 was repealed by Act 649/2007.*

#### **Section 75**

The guardianship authority shall be given an opportunity to be heard in a matter concerning the appointment of a guardian or the restriction of a person's legal capacity, if the opinion of the authority is not indicated in the petition documents.

However, the hearing of the guardianship authority may be waived in a matter concerning the appointment of a guardian if the hearing is not necessary for resolving the matter.

## **Section 76**

If, in a matter concerning the appointment of a guardian or the restriction of a person's legal capacity, it is necessary to hear a person with the right of action under section 72 in person, the provisions of chapter 12 of the Code of Judicial Procedure on the obligation of a party to a civil matter to appear in court in person apply to that person.

If the person to be heard referred to subsection 1 cannot appear in court without considerable difficulty or if there is another special reason for this, the hearing can be conducted elsewhere than in the main hearing. (649/2007)

## **Section 77**

In a matter concerning the appointment of a guardian, the court may entrust the guardian with a duty not requested in the petition, and in a matter concerning the restriction of a person's legal capacity, the court may restrict the person's legal capacity to a wider extent or in a way that otherwise deviates from what was requested in the petition, if this is to be deemed necessary under section 8 or 18 for the purpose of protecting the best interests of the client.

## **Section 78**

In a matter concerning the appointment of a guardian or the restriction of a person's legal capacity, the court shall, on its own motion, order that all evidence necessary for a decision in the matter be procured.

## **Section 79 (649/2007)**

In a matter concerning the appointment of a guardian or the restriction of a person's legal capacity, the court may issue an interim order. If the matter cannot be delayed, the order may be issued without hearing the person whose interests are to be overseen and the other persons referred to in section 73. The interim order is in force until the court issues a decision in the matter, unless the order is revoked or amended before that.

An interim order is ineligible for review.

## **Section 80**

Anyone who has the right to institute a matter under section 72 has the right to request a review of a court decision concerning the appointment of a guardian or the restriction of a person's legal capacity.

## **Section 81 (649/2007)**

The provisions of sections 69–80 also apply, as appropriate, to matters concerning the dismissal of a guardian from their duties or making changes to or terminating the mandate of a guardian and to matters concerning the revocation or amendment of a restriction of legal capacity.

When a matter referred to in subsection 1 is being considered, the guardian shall be given an opportunity to be heard. An interim order may, however, be issued without giving the guardian an opportunity to be heard, if the matter cannot be delayed. Similarly, an opportunity to be heard need not be given if a notice of the opportunity to be heard should be served on the person concerned by way of public notice referred to in chapter 11, section 9 of the Code of Judicial Procedure.

## **Section 82**

In matters referred to in this chapter, the court may, on its own motion, appoint a legal counsel or a guardian for the purposes of judicial proceedings for the person whose guardianship the petition concerns, if this is necessary in view of the legal protection of that person.

The provisions of section 44 on the fee and reimbursement of costs of a guardian apply to the fee and reimbursement of costs of a legal counsel referred to in subsection 1, as appropriate.

(649/2007)

## **Section 83**

A district court decision concerning the appointment or dismissal of a guardian or the restriction of a person's legal capacity shall be complied with even if it has not become final. The same applies to a district court decision by which changes have been made to the mandate of a guardian, unless otherwise ruled in the decision. (649/2007)

The decision of a court of appeal on a matter referred to in this chapter shall be complied with even if it has not become final, unless the court of appeal has otherwise ruled in the decision.

If a court of appeal or the Supreme Court returns a matter to a lower court for reconsideration, it may order that the appointment of a guardian or the restriction of a person's legal capacity shall remain in force until the said lower court has decided the matter or issued an interim order in the matter.

## **Chapter 9**

### **Administration of the guardianship service and requesting a review of decisions of the guardianship authority**

#### **Provisions on administration**

#### **Section 84 (1135/2019)**

The Digital and Population Data Services Agency is the guardianship authority.

In Åland, however, the State Department of Åland is the guardianship authority if the person whose interests are to be overseen has a municipality of residence referred to in the Municipality of Residence Act (201/1994) in Åland or if the person whose interests are to be overseen does not have a municipality of residence in Finland but mainly resides in Åland.

The State Department of Åland is also the guardianship authority in cases where the guardianship concerns the right of an absent person or a future owner, and the State Department of Åland would have been competent, under subsection 2, to supervise the activities of a guardian appointed for the deceased person. The State Department of Åland is also the competent guardianship authority if the interests of someone else need to be overseen otherwise under section 10 and the need for guardianship arises in Åland.

What is provided in this Act on wellbeing services counties applies in Åland to the municipalities of Åland. (637/2022)

## **Section 85 (649/2007)**

In the guardianship authority, matters concerning the appointment or dismissal of a guardian, making changes to or terminating the mandate of a guardian, and a permit or obligation referred to in this Act shall be decided, upon presentation, by such a public official with a master's degree in law other than a master's degree in international and comparative law who is responsible for the task under the rules of procedure. The guardianship authority shall decide other matters as separately provided on the decision-making in matters falling within the competence of the Digital and Population Data Services Agency or the State Department of Åland. (1135/2019)

Unless otherwise provided in this Act, the Administrative Procedure Act applies to the consideration of matters and to the disqualification of public officials.

The services of the guardianship authority are subject to a charge as provided in the Act on Criteria for Charges Payable to the State (150/1992). However, the guardianship authority may, in an individual case, decide that no charge shall be collected for its services, if the liable party's ability to pay, considering their disposable income and assets, is substantially reduced due to a maintenance obligation, unemployment, illness or other special reason or if collecting the charge would be unreasonable for some other reason.

## **Section 86 (649/2007)**

When the guardianship authority has been requested to appoint a guardian under section 12, subsection 1 of this Act, to make changes to the mandate of a guardian under section 15, subsection 3 or to order that the mandate of a guardian be terminated under section 17, subsection 4, the guardianship authority shall hear the person whose interests are to be overseen in person. The guardianship authority may request that the applicant supply it with a medical statement on the circumstances that are of significance for a decision in the matter.

The hearing may also be carried out using a technical device through which a public official of the guardianship authority and the person to be heard are in audiovisual contact with each other during the hearing, if this is necessary due to long distances or for another reason. (1135/2019)

### **Section 86a (649/2007)**

A decision of the guardianship authority on the appointment or dismissal of a guardian shall be complied with even if it has not become final. The same applies to a decision of the guardianship authority by which changes have been made to the mandate of a guardian, unless otherwise provided in the decision.

### **Requesting a review of decisions of the guardianship authority**

### **Section 87 (910/2015)**

A judicial review of a decision of the guardianship authority made under sections 34 and 57 may be requested by appeal from an administrative court as provided in the Administrative Judicial Procedure Act (808/2019). (1135/2019)

An administrative review of other decisions of the guardianship authority may be requested as provided in the Administrative Procedure Act. A decision on the request for an administrative review may be appealed against to an administrative court as provided in the Administrative Judicial Procedure Act. (1135/2019)

A decision of the administrative court may be appealed against as provided in the Administrative Judicial Procedure Act. (1135/2019)

However, a decision of the guardianship authority concerning the appointment of a guardian under section 12, making changes to the mandate of a guardian under section 15, subsection 3, dismissal of a guardian under section 16, subsection 3, terminating the mandate of a guardian under section 17, subsection 4, resolving a disagreement between guardians under section 30, subsection 3, extending the time limit referred to in section 48, subsection 3 or the time of fulfilling the obligation to give a statement of accounts referred to in section 51, subsections 1–3 are ineligible for administrative review or judicial review by appeal.

### **Section 87a (649/2007)**

If the guardianship authority has appointed a guardian under section 12, made changes to the mandate of a guardian under section 15, subsection 3, dismissed a guardian under section 16,

subsection 3 or ordered that the mandate of a guardian be terminated under section 17, subsection 4, the applicant may submit the matter to a district court for consideration (*request for a decision*). If the case concerns the appointment of a substitute under section 12, subsection 3, the request may also be filed by the client.

The request for a decision shall be filed with the guardianship authority within 30 days from the service of the guardianship authority's decision. The request shall be made in writing and it shall mention the decision of the guardianship authority that it concerns and state how and on what grounds the party filing it is dissatisfied with the decision. (1135/2019)

The guardianship authority shall without delay deliver the request for a decision to the district court referred to in section 70 or 71 for consideration. Together with the request, the guardianship authority shall submit to the district court a copy of its decision and the documents accumulated in the matter.

The provisions of sections 73 and 75–83 apply to the consideration of a request for a decision in court, as appropriate.

## **Chapter 10**

### **Miscellaneous provisions**

#### **Section 88 (649/2007)**

A person under guardianship has the right of access to the information concerning themselves included in the documents of the guardianship authority as provided in the Act on the Openness of Government Activities (621/1999). After the death of a person under guardianship, their legal successors have the right of access to the same information that the person themselves would have had.

#### **Section 89**

In matters relating to their duties, a guardian has the right of access to the same information that their client would have the right of access, unless otherwise separately provided.

The guardian has the right, without the client's consent, to open letters or other comparable closed messages addressed to the client only if it can be concluded from the sender's name or other special circumstances that the message concerns a matter that is to be managed by the guardian.

## **Section 90**

Notwithstanding secrecy provisions, government authorities, authorities of wellbeing services counties, local authorities and other bodies governed by public law, the Social Insurance Institution of Finland, the Finnish Centre for Pensions, pension funds and other pension institutions, insurance institutions, banks and other financial institutions, healthcare and social welfare units, healthcare professionals and private social service providers are obliged, upon request, to provide the guardianship authority and courts with the information and evidence that are necessary for resolving a pending matter and, in addition, to provide the guardianship authority with the information and evidence that are necessary for resolving such a matter concerning the protection of an adult or a child that is pending in a foreign state and in which an authority of the foreign state has requested information under a treaty. (637/2022)

The guardianship authority or a court may request a wellbeing services county to issue a statement if obtaining evidence of the circumstances of the person concerned is necessary in a matter referred to in this Act. The request shall be addressed to the wellbeing services county in which the person concerned has their municipality of residence, or if the person does not have a municipality of residence in Finland, in which the person primarily resides. (637/2022)

If providing the information or evidence other than those referred to in subsection 2 causes substantial costs or a considerable amount of additional work to the party obliged to provide it, a reasonable fee may be charged for providing the information.

## **Section 91**

A person who has become aware of someone being in need of guardianship may notify the guardianship authority of this regardless of the obligation to remain silent. The notification shall be submitted to the guardianship authority in whose area of operation the person concerned has their municipality of residence or, if the person does not have a municipality of residence in Finland, to the guardianship authority in whose area of operation the person primarily resides. Having

received the notification, the guardianship authority shall take measures to determine the person's need for guardianship and, where necessary, file a petition for the appointment of a guardian with a district court.

## **Section 92**

The provisions of the Act on the Openness of Government Activities apply to the non-disclosure obligation of persons acting for a public authority. (649/2007)

A guardian, a person employed by a provider of guardianship services, an elected official, and an expert working for the guardianship service shall not, without the consent of the person concerned, disclose information that they have gained knowledge of in the course of their duties related to the guardianship service, if the information is non-disclosable because of the need to protect the economic interests or privacy of an individual. (649/2007)

The provisions of subsections 1 and 2 do not prevent the disclosure of information:

- 1) to government authorities, authorities of a wellbeing services county, local authorities or other persons for the purpose of performing duties under this Act; (637/2022)
- 2) to a prosecution authority and a police authority for the purpose of investigating an offence;
- 3) to a court, if this is necessary in a matter referred to in this Act; and
- 4) to a person who under the law has the right to be informed of the matter.

## **Section 93**

The punishment for a violation of the non-disclosure obligation is imposed in accordance with chapter 38, section 1 or 2 of the Criminal Code, unless the act is punishable under chapter 40, section 5 of the Criminal Code or unless a more severe punishment for the act is provided elsewhere by law.

## **Section 94**

A person who refuses to disclose information that they are obliged to disclose under section 90 shall be sentenced for *a violation of the obligation to disclose information under the Guardianship Service Act* to a fine.

The prosecutor shall not bring charges for an act referred to in subsection 1 unless the guardianship authority reports it for prosecution. (456/2011)

## **Section 95 (1135/2019)**

Further provisions on the financial instruments referred to in section 34, subsection 1, paragraph 13, subparagraph f may be issued by decree of the Ministry of Justice.

## **Chapter 10a (780/2010)**

### **Provisions of private international law**

#### **International competence of Finnish authorities**

### **Section 95a (780/2010)**

#### **General grounds for competence**

Finnish authorities are competent in a matter concerning guardianship if:

- 1) the person whose guardianship the matter concerns is habitually resident in Finland;
- 2) the person whose guardianship the matter concerns is not habitually resident in any state or the person's place of habitual residence cannot be established and the person is residing in Finland; or
- 3) the matter concerns property located in Finland or representation of a client in Finland.

In addition to what is provided in subsection 1, Finnish authorities are competent in a matter concerning the guardianship of a Finnish citizen habitually resident in a foreign state if the matter cannot be submitted to authorities of that state for decision or if this would cause unreasonable difficulty and deciding the matter in Finland is to be deemed necessary.

### **Section 95b (780/2010)**

#### **Competence in matters concerning the guardianship of an absent or unknown person**

Finnish authorities are competent in a matter concerning the guardianship of a person whose identity or whereabouts are unknown, if the matter to be dealt with by the guardian has such a connection to Finland that deciding the matter in Finland is to be deemed necessary.

### **Section 95c (780/2010)**

#### **Competence in urgent situations**

If there is an urgent need to oversee the interests of a person who is residing in Finland or who has a matter or property to be managed here, Finnish authorities are competent to arrange the guardianship.

### **Section 95d (780/2010)**

#### **Measures related to the supervision of the activities of a guardian**

Finnish authorities are competent to consider matters concerning a property management plan, accountability and a permit granted to a guardian and other matters related to the supervision of the activities of a guardian, if the Finnish guardianship authority is responsible for the supervision of the guardian's activities or if the matter concerns a period during which the Finnish guardianship authority was responsible for supervising the activities of the guardian.

### **Section 95e (780/2010)**

#### **Competence in matters concerning the dismissal of a guardian**

A Finnish authority may dismiss a guardian appointed by a Finnish authority even if the authority was not competent under section 95a.

## **Applicable law**

### **Section 95f (780/2010)**

#### **Law applicable to guardianship measures**

Finnish authorities shall apply Finnish law when they exercise powers in matters concerning guardianship. However, if the matter has a close connection with a foreign state, the law of that state may, in exceptional cases, be taken into consideration if the best interests of the person whose guardianship the matter concerns so require.

### **Section 95g (780/2010)**

#### **Minors**

Finnish law applies to the question of whether a party to a legal transaction is a minor and to the question of how age affects the person's legal capacity if the person is habitually resident in Finland at the time of the legal transaction. If the person is habitually resident in a foreign state at that time, the law of the state that is applicable in the foreign state in question shall apply.

### **Section 95h (780/2010)**

#### **Guardianship of a minor by act of parties or operation of law**

The question of who is the guardian of a person under 18 years of age by act of parties or operation of law and the question of under which conditions such guardianship ends by act of parties or operation of law are governed by the law of the state designated in Articles 16 and 21 of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

The law of the state of the client's habitual residence applies to the performance of the duties of a guardian referred to in subsection 1. If the habitual residence changes to another state, the law of that state shall apply.

## **Section 95i (780/2010)**

### **Status of the other party to a legal transaction**

A legal transaction in which a person under guardianship was represented by a person who had no power to represent them under the applicable law shall, nevertheless, be valid if:

- 1) the legal transaction was entered into between persons who were within the territory of the same state;
- 2) the representative had the right to act as a representative under the law of the state where the legal transaction took place; and
- 3) the other party to the legal transaction did not know or should not have known that the law of another state was applied to the power of representation.

### **Recognition and enforceability of a decision issued in a foreign state**

## **Section 95j (666/2015)**

### **Prerequisites for recognition**

A decision in a matter concerning guardianship issued in a foreign state that is in force in that state is recognised in Finland without separate confirmation.

The recognition of a decision may, however, be refused if:

- 1) the decision was issued under such circumstances that a Finnish authority would not have been competent under corresponding circumstances;
- 2) the decision was issued against an absent person and the application for a summons or another corresponding document had not been served on the absent person in sufficiently good time and in a manner that would have enabled the person to prepare for a response in the matter;
- 3) the decision is incompatible with a measure taken in Finland or with such a later measure taken in a foreign state that is recognised in Finland; or

4) the decision is contrary to public policy of Finland or conflicts with such a provision of Finnish law the application of which is mandatory regardless of the law that shall otherwise be applied.

Upon petition, the Helsinki District Court may decide whether a decision in a matter concerning guardianship issued in a foreign state is to be recognised in Finland.

### **Section 95k (666/2015)**

#### **Enforceability**

A decision in a matter concerning guardianship issued in a foreign state that is enforceable in that state is enforceable in Finland if the Helsinki District Court has, upon petition, declared it enforceable in Finland. The court may refuse to declare a decision enforceable on the grounds laid down in section 95j, subsection 2.

### **Section 95l (780/2010)**

#### **Application of a decision in Finland**

When a decision on guardianship issued in a foreign state becomes applicable in Finland, the conditions for applying the decision are determined under Finnish law.

### **Other provisions**

### **Section 95m (780/2010)**

#### **Incompatibility with public policy**

A provision of the law of a foreign state shall be disregarded if its application would lead to an outcome that is contrary to public policy of Finland.

### **Section 95n (780/2010)**

#### **Reference to the law of a foreign state**

Unless otherwise separately provided, a reference to the law of a foreign state in this chapter does not mean the provisions of private international law in the law of that state.

## **Article 95o (780/2010)**

### **Subsidiary nature of provisions**

The provisions of this chapter only apply unless otherwise provided in another act or in the international obligations binding on Finland.

## **Chapter 11**

### **Transitional provisions and entry into force**

#### **Section 96**

##### **Entry into force and provisions repealed**

This Act enters into force on 1 December 1999.

This Act repeals the Act on Guardianship of 19 August 1898 (34/1898), as amended.

#### **Section 97**

##### **Consideration of pending matters**

Matters that are pending in a municipal guardianship board upon the entry into force of this Act are transferred to the guardianship authority in whose area of operation the municipality is located.

A court shall deal with matters pending in the court upon the entry into force of this Act, even if the matter did not fall within its competence under this Act.

#### **Section 98**

##### **Application of this Act**

This Act applies to matters of the guardianship service deriving from the time before the entry into force of the Act as follows:

1) *Persons without legal capacity.* Persons who lack legal capacity upon the entry into force of this Act shall be subject to the provisions of this Act on persons without legal capacity. As regards persons declared to be under guardianship and supervised by the guardianship authority, the

authority shall without delay determine whether the lack of legal capacity should continue and, where necessary, file a petition for the arrangement of guardianship as provided in this Act.

2) *Guardians and trustees.* Guardians and trustees appointed under the Act on Guardianship shall be governed by the provisions of this Act on guardians after the entry into force of this Act.

3) *Certain pending matters.* If a matter concerning the declaration of a person to be under guardianship, the appointment of a guardian or a trustee, or the dismissal of these from their duties is pending in a court upon the entry into force of this Act, the matter shall be considered in accordance with the provisions of this Act on the restriction of legal capacity, the appointment of a guardian or the dismissal of a guardian, respectively. If a matter concerning the declaration of a person to be under guardianship is pending in the Supreme Court or a court of appeal due to a request for a review, it shall be returned to a lower court for reconsideration, unless the request for a review is ruled inadmissible immediately. When a court orders that a matter be returned to a lower court, it may also order that the decision by which a person has been declared to be under guardianship shall remain in effect until the lower court has made its decision.

## **Section 99**

### **Application of the previous Act**

The Act in force upon the entry into force of this Act (*previous Act*) applies after the entry into force of this Act as follows:

1) *Pending permit applications.* If an application concerning the consent of a guardianship board or a court for a legal transaction already entered into or to be entered into later is pending upon the entry into force of this Act, the provisions of the previous Act apply to the application. However, the application shall lapse if no consent of the guardianship authority is required for the legal transaction under this Act.

2) *Validity of legal transactions.* The provisions of the previous Act apply to the assessment of the validity of a legal transaction entered into by a guardian or a trustee before the entry into force of this Act.

3) *Guardianship account.* A guardianship account covering the financial year 1999 or an earlier financial year shall, after the entry into force of this Act, be filed with the guardianship authority.

However, the account and the filing of it are otherwise governed by the provisions of the previous Act. If, under section 51, subsection 2 of the Act on Guardianship, the court has extended the financial period to over one year, the extension shall remain in force regardless of the entry into force of this Act, unless the guardianship authority orders otherwise.

4) *Ended guardianship mandates.* If the mandate of a guardian or a trustee has ended before the entry into force of this Act, the previous Act applies to it.

## **Section 100**

### **References to the previous Act**

If an act or a decree contains a reference to the previous Act, the provision containing the reference applies after the entry into force of this Act as follows:

1) *Provisions on guardians and trustees.* Provisions on guardians or trustees appointed under the Act on Guardianship also apply to guardians appointed under this Act, unless otherwise provided in section 50, subsection 3 of the Act on Child Custody and Right of Access (361/1983).

2) *Legal effects of the measures of guardians and trustees.* Provisions in an act or a decree on the legal effects of a measure or an omission by a guardian or a trustee appointed under the Act on Guardianship also apply to a guardian appointed under this Act.

3) *Provisions on persons declared to be under guardianship.* Provisions on persons declared to be under guardianship also apply to persons declared to lack legal capacity.

4) *Provisions on persons without legal capacity and persons under guardianship.* Provisions in an act or a decree on persons without legal capacity or persons under guardianship also apply to persons who lack legal capacity under this Act.

5) *Provisions requiring full legal capacity.* If, under an act or a decree, the obtaining of a permit, the performance of a task, the pursuit of an activity or the carrying out of a measure is dependent on the person having full legal capacity and in charge of their person and property, a restriction of the person's legal capacity under section 18, subsection 1, paragraph 1 or 2 shall not be considered an impediment to the same, unless otherwise follows from the contents of the restriction.

6) *Provisions on the guardianship board.* Provisions in an act or a decree on the guardianship board apply, as appropriate, to the guardianship authority.

7) *Other references to the Act on Guardianship.* If an act or a decree otherwise contains a reference to a provision replaced by a provision of this Act, the provision of this Act applies, as appropriate.

## **Section 101**

### **Transfer of data included in the guardianship ledger**

A local register office shall, before the entry into force of this Act, transfer to the Register of Guardianship Affairs information on the valid guardianships and trusteeships that have been entered in the guardianship ledger and that are to be supervised by the local register office after the entry into force of this Act. The district court where the guardianship ledger is kept shall supply the local register office with the necessary information and make sure that the information supplied is correct.

## **Section 102**

### **Transfer of documents of guardianship boards**

The documents of the guardianship boards concerning guardianships and trusteeships that are necessary for the guardianship authority for the performance of the duties referred to in chapter 6 of this Act shall be handed over to the guardianship authority in whose area of operation the municipality is located. The municipality is responsible for the delivery of the documents.

## **Section 103**

### **Authorisation for implementation measures**

Measures necessary for the implementation of this Act may be undertaken before its entry into force.