Succession

Sweden

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1 How is the disposition of property upon death (will, joint will, agreement on succession) drawn up?

Anyone who is 18 years old or older is entitled to draw up a will. A will is not valid if it has been drawn up under the influence of mental illness. To be valid, a will must be drawn up in writing and signed by the testator. The will must also be witnessed and signed by two witnesses at the same time. The witnesses need to know that it is a will that they are witnessing, but they do not need to know the content of the will.

The two witnesses must be over 15 years old and may not be a spouse, a cohabiting partner, a sibling or a direct relative or have an affinity with the testator. A person who themselves or whose spouse, cohabiting partner, sibling, direct relative or someone who has affinity with them, is left inheritance in the will may not be a witness either.

It is possible for a testator to draw up a privileged will (*nödstestamente*) if the testator is prevented from drawing up a will in the manner described above due to an illness or other emergency. The will can then be made verbally in front of two witnesses, or handwritten and signed by the testator.

If a party wishes to nullify a will, they must file a protest action against the will in court. They must file this action within six months of receiving the will.

The disposition of the estate is only valid in accordance with the regulations for wills. Succession agreements or other agreements for the transfer of property after death are therefore not valid.

2 Should the disposition be registered and if yes, how?

There are no rules for registering wills in Sweden.

To make sure that there is a will and that it can be used after the death of the testator, he or she should tell someone whom they trust where the will is kept. It is common for wills to be kept at a lawyer's office or a bank. If the will cannot be found after the death of the testator, the succession stipulated by law is followed. The estate can be redistributed if the will is found at a later date. There is a limitation period of ten years.

3 Are there restrictions on the freedom to dispose of property upon death (e.g. reserved share)?

Yes, if a person is married and/or has children, there are restrictions on the right to dispose of their estate.

If the testator was married, the surviving spouse is entitled to receive property that, together with what the surviving spouse received at the division of their joint estate or that constitutes the spouse's separate property, corresponds to four price base amounts pursuant to Chapter 2 Sections 6 and 7 of the Social Insurance Code (2014: SEK 44 400 x 4 = SEK 177 600) (the base amount rule). This right is valid as far as the estate is of a sufficient value. This means that if there is no property of such a value, the surviving spouse inherits all the property that exists. Wills that restrict this right will not be valid in this respect.

Children and grandchildren of the deceased (known as *bröstarvingar,* 'heirs of the body') are entitled to a statutory minimum portion of the inheritance. The statutory portion (*laglott*) is half of the share that is due by law to the children and grandchildren where there is no will, to which the children and grandchildren have equal rights. Wills that restrict the statutory portion are to that extent invalid. A child or grandchild can claim their statutory portion by requesting adjustment of the will within six months of receiving the will.

4 In the absence of a disposition of property upon death, who inherits and how much?

If there is no special disposition of the estate, the inheritance is distributed in accordance with the succession established by law. One requirement for the entitlement to an inheritance is that the person must be alive at the time of the deceased's death. Even someone who had been conceived by the time of the death and is born afterwards is entitled to inheritance.

The law distinguishes three classes of heirs. The first class comprises the children or grandchildren of the deceased. The second class comprises the deceased's parents and siblings, while the third class comprises the deceased's grandparents and their children, i.e. the deceased's parent's siblings. The inheritance is distributed equally within each class. The second class does not inherit if there is someone alive in the first class. The third class inherits if there is no-one alive in the first or the second class.

If the deceased was married, the estate goes to the surviving spouse. After the death of the surviving spouse, the children or grandchildren inherit jointly; and if there are no children or grandchildren to inherit, the second or third class of heirs inherit. These heirs thus inherit by secondary inheritance (*efterarv*) after the death of the surviving spouse.

If the deceased has children who are not the children of the surviving spouse, they are entitled to receive their statutory portion upon the deceased's death.

If there are no heirs, the estate goes to the Inheritance Fund (*den allmänna arvsfonden*).

5 What type of authority is competent:

5.1 in matters of succession?

The distribution of the inheritance is mostly carried out without the involvement of the authorities. Instead it is the parties who are entitled to the inheritance, the joint owners of the deceased's estate, who together distribute the estate after the death. The parties to the estate are the surviving spouse or cohabiting partner, heirs and universal legatees. Three months after the death, an inventory of the estate must be submitted to the Tax Agency (*Skatteverket*). This estate inventory reports the assets and debts of the deceased's estate. The estate inventory also shows which people are authorised to represent the estate.

The Tax Agency is also the competent authority to search for an heir whose whereabouts are unknown by posting an announcement in *Post- och Inrikes Tidningar*.

If any of the parties to the estate so requests, the court can order that the property be assigned for administration by an official estate administrator (*boutredningsman*) and also appoint one. If the parties cannot agree on the distribution of the estate, a special estate distributor (*skiftesman*) will be appointed. This person can compel the distribution of an estate. The estate distributor is appointed by an ordinary court of competent jurisdiction.

Inheritance disputes are also resolved by an ordinary court of competent jurisdiction.

If any of the parties to the estate are under age or legally incompetent, a trustee will be appointed. A trustee (*god man*) is appointed by the chief guardian (*överförmyndaren*).

5.2 to receive a declaration of waiver or acceptance of the succession?

5.3 to receive a declaration of waiver or acceptance of the legacy?

5.4 to receive a declaration of waiver and acceptance of a reserved share?

A special acceptance of an heir's right to an inheritance is not required. However, he or she will have to make themselves known and if they are a party to the estate, they must help administer the estate.

If a person is entitled to inheritance through a will, they must, if they wish to assert their right, give notice of the will to those who are heirs by law. This means that an attested copy of the will is handed to and receipt is confirmed by the heir(s). After notice of the will, any heirs who believe that the will should be declared null and void, heirs who wish to have the will adjusted in order to receive their statutory portion, or a surviving spouse who wishes to invoke the base amount rule have six months to file a protest action in court.

It is possible for a child or grandchild of the deceased to waive their right to inheritance in favour of the surviving spouse. This is not relinquishing their inheritance; instead the heir is postponing their right to inheritance. The heir will be entitled to the secondary inheritance from the surviving spouse's estate and when the surviving spouse dies, the heir will receive his/her minimum portion. Should the heir not be alive at the death of the surviving spouse, the heir's own heirs will receive the inheritance in his/her place.

An heir or legatee can waive their right to inheritance by so informing the person leaving the property before his/her death. Such a waiver applies, unless otherwise specified, to the heir's own heirs. However, a child or grandchild or their heirs are always entitled to receive their statutory portion.

If an heir or legatee withdraws or does not claim their inheritance, the Tax Agency can direct him or her to assert their right within six months of such direction being given to him or her. If the heir or legatee does not assert their right, they will lose their entitlement to the inheritance. It is possible for a person to waive their right to inheritance up until the moment the estate is distributed.

6 Short description of the procedure to settle a succession under national law, including the winding-up of the estate and sharing out of the assets (this includes information whether the succession procedure is initiated by a court or other competent authority on its own motion)

When a person dies, the parties to the estate, i.e. a surviving spouse or cohabiting partner and any heirs or universal legatees, must jointly administer the deceased's property. They are responsible for drawing up the estate inventory (*bouppteckning*) and submitting it to the Tax Agency. If the assets exceed the debts, the surplus amount will be distributed as stipulated by law or as set out in the will. The estate is divided through an estate distribution document (*arvskifte*), which is drawn up by the heirs and universal legatees. The estate distribution document must be in writing and signed by the heirs. If the heirs cannot agree on the distribution, an estate distributor (*skiftesman*) may be appointed and a compulsory distribution may be carried out. If an executor (*testamentsexekutor*) was appointed in the will, the executor will be responsible for the distribution.

If the deceased was married or cohabiting, a division of the couple's joint estate will normally be carried out. The division of the joint estate will take place before the distribution of the deceased's estate.

7 How and when does one become an heir or legatee?

A person becomes an heir (*arvinge*) by law. To be an heir, the person must be alive at the time the testator dies. Alternatively, they must have been conceived before the death and born afterwards. There are three different inheritance classes for people who are entitled to inheritance; for more information, refer to question 4.

A person becomes a legatee (*testamentstagare*) if they are bequeathed property in a valid will. If the legatee is not alive when the testator dies, their place is taken by relatives of the legatee who are entitled to inherit in accordance with the succession laid down by law.

8 Are the heirs liable for the deceased's debts and, if yes, under which conditions?

No, the heirs are not liable for the debts of the deceased. When a person dies, their assets and liabilities go into an estate (*dödsbo*). The estate is a legal person in its own right and therefore has its own rights and obligations. If the debts exceed the assets, the estate goes into bankruptcy and no distribution of the inheritance is carried out.

9 What are the documents and/or information usually required for the purposes of registration of immovable property?

Anyone who has acquired immovable property with ownership rights must apply for the acquisition to be registered (registration of title) at the National Land Survey(https://www.lantmateriet.se/), normally within three months of the acquisition. A person who applies for the registration of title must submit the document of acquisition and the other documents that are necessary to support the acquisition. This means, for example, in the event of a purchase, the purchase document, among other things, must be submitted. If the property is acquired through inheritance, it is in some cases sufficient (if there is only one party to the estate) in principle for the registered estate inventory to be submitted in an original and an authenticated copy. In other cases, the estate distribution document must be submitted in an original and authenticated copy. Other documents may also need to be submitted, for example, the consent of the chief guardian if there is a person who is under age or legally incompetent who is party to the estate. In some cases a person can apply for the registration of title by submitting a will that has acquired legal effect, instead of the estate distribution document.

The person who last applied for the registration of title is considered to be the property's owner.

9.1 Is the appointment of an administrator mandatory or mandatory upon request? If it is mandatory or mandatory upon request, what are the steps to be taken?

It is obligatory to appoint an official estate administrator if a party to the estate requests one to be appointed. A legatee, someone who has been bequeathed specific property through the will, is entitled to request an official estate administrator. The estate administrator is appointed by a court of competent jurisdiction. The estate administrator must have the knowledge required to administer the estate.

A testator may provide in their will that an executor will look after the administration of the estate instead of the heirs and universal legatees.

9.2 Who is entitled to execute the disposition upon death of the deceased and/or to administrate the estate?

Firstly, it is the parties to the estate; i.e. the surviving spouse or cohabiting partner, heirs and universal legatees. The people who are parties to the estate must be listed in the estate inventory. If an official estate administrator or an executor of the will has been appointed, they are authorised to represent the estate instead of the parties to the estate.

9.3 What powers does an administrator have?

An official estate administrator is tasked with analysing the assets and debts of the estate and administering the property. It must also be established which heirs or legatees there are in order to then distribute the estate in accordance with the legal succession or the will. The estate administrator is therefore authorised to sign the legal documents that are necessary for this. There are some limitations to the authority of the estate administrator, e.g. when selling immovable property the estate administrator must have the written consent of all the joint owners or, if this cannot be obtained, the permission of a competent district court.

10 Which documents are typically issued under national law in the course of or at the end of succession proceedings proving the status and rights of the beneficiaries? Do they have specific evidentiary effects?

The most common documents are the estate inventory and the estate distribution document.

Estate inventory (*bouppteckning*): Following the estate inventory proceedings, to which all heirs and legatees must be invited, an estate inventory is drawn up which must be submitted to the Tax Agency. The inventory shows, among other things, who the heirs and legatees are, and the assets and debts of the

estate. The person who best knows the estate, the presenter of the estate inventory, must solemnly certify that the information contained in the estate inventory is correct. Two people must certify that everything has been correctly noted down in the estate inventory. The will and premarital settlement must be enclosed with the estate inventory. The Tax Agency registers the estate inventory. A registered estate inventory is important in civil law. This document, by itself or with the estate distribution documents, can be produced by the parties to the estate as evidence of title, for example, when the money from the deceased's bank account(s) needs to be withdrawn and when an application to register the title of a property has to be made.
Estate distribution *document* (*arvsskifte*): When distributing the estate, an estate distribution document must be drawn up. The estate distribution document must be drawn up in writing and signed by the heir and/or legatees. The estate distribution document is also important in civil law and is can be produced by the parties to the estate as evidence of title.
Swedish law applies the free assessment of evidence, which means that there are no special provisions on what evidential value a specific document has.