

*CIVIL LAW*

During the first half of 1965 a number of regulations were passed arising from and implementing the Civil Code and the Civil Proceedings Code, which came into force on 1st January 1965. In mentioning these regulations in the sequence in which they appeared, it should be noted that the Minister of Justice issued an order on 24th November, 1964, limiting the civil liability of people keeping hotels or similar establishments (*Dziennik Ustaw* {Journal of Laws, abbrev. J. of L.}, 1965, No. 1, item 2). This order was issued on the basis of Art. 849 § 1 of the Civil Code. It states that if a guest in a hotel or similar establishment has suffered loss or damage in money, bills, valuables, or objects of scientific or artistic value, the liability of the person in charge of the hotel or similar establishment shall be limited to the sum fixed by an order of the Minister of Justice in agreement with other ministers concerned. The order of 24th November, 1964, referred to above, lays down that this liability should be limited to five thousand zlotys for each guest, unless the objects in question were deposited with the hotel management, or unless the loss or damage was caused through the deliberate fault or glaring negligence of the person running the hotel or similar establishment, or of a person employed by the management.

An order was issued by the Minister of National Defence on 30th January 1965, concerning military last wills and testaments (J. of L., No. 7, item 38). This was based on Art. 954 of the Civil Code, which left the form of these wills to be determined by an order of the Minister of National Defence in conjunction with the Minister of Justice. The order declares that a military testament can only be made during mobilization or war, or in a prison camp. Military testaments may be made by members of the Armed Forces on active service, by civilians who are employed by the Armed Forces, by civilians accompanying the Armed Forces, such as members of the Red Cross or other organizations which assist the army medical services, by persons acting as clergymen in the Armed Forces, members of auxiliary services, and people performing personal services for the Armed Forces. Other people may make a military testament if they find themselves in an area entirely subject to the military, or if they are in a ship or aircraft belonging to the Armed Forces. The order permits several forms of

military testament, namely: 1) the testator may express his last will orally to a military judge who writes it down in a protocol, giving the date and place it was made; he then reads out the protocol to the testator and makes an annotation that he has done so, whereupon the protocol is signed by both testator and judge; if the testator is unable to sign, the judge makes a note in the protocol to this effect, stating why there is no testator's signature; 2) the testator may make his last will known orally in the presence of two witnesses who are present simultaneously, of which one writes down the testator's last will, giving the date and place it was recorded; the testament made in this way is then signed by the testator and the two witnesses; 3) if the testator is unable to sign, he may express his last will verbally in the presence of three witnesses who are all present simultaneously, and of whom one writes down the testator's last will, with an explanation of why there is no testator's signature; after the will is made in this fashion it is read out to the testator and a note made to this effect, whereupon it is signed by all three witnesses.

If it is feared that the death of the testator is imminent because of his wounds or illness, or if because in the particular circumstances it would be impossible or very difficult to observe the above forms for the making of a last will and testament, a military testament may be made in the following way. The testator expresses his last will by word of mouth to two witnesses even if they are not present together at the same time. Such a testament may be confirmed according to the procedure laid down in Art. 952 § 2 and 3 of the Civil Code. According to these paragraphs, the terms of such a verbal testament may be attested in the following way. One of the witnesses or a third person makes a written statement of the testator's last wishes within a year of their having been stated, giving the date and place the testator expressed his last will, and also giving the date and place the written statement was drawn up. This statement is then signed by the testator and two witnesses or by all the witnesses. If the wishes expressed in the verbal testament are not attested in this way, they may be attested within six months of the opening of the will if the witnesses make a joint statement to the court. If it is impossible or very difficult for a witness to appear before the court, the court may agree to take into account only the joint statement of two witnesses.

The circumstances in which a military testament may be drawn up do not exclude the making of a last will and testament according to the regulations of the Civil Code (Art. 949—953).

The order came into effect on the day of its promulgation.

On 2nd March, 1965 the Minister of Internal Trade issued on the basis of Art. 563 § 1 of the Civil Code an order fixing the periods within which complaints might be received about physical defects in foodstuffs (J. of L., No. 12, item 83). The order fixed different periods, according to the type of foodstuff concerned, within which a purchaser can notify the seller about defective weight of a given article. If the seller does not receive notification from the purchaser as to the defective physical weight of the article in question within the time fixed by the order, then the purchaser loses his rights under the guarantee which safeguards him against underweight of the article.

During the first half of 1965 the Code of Civil Proceedings was supplemented by an executive order based on Art. 112 § 2 of the Code of Civil Proceedings. This ordinance was published by the Minister of Justice on 12th May, 1965, and was concerned with the partial freeing of persons from court costs in civil cases (J. of L., No. 21, item 135). The order came into force on the day of its promulgation. On the same day the order of the Minister of Justice, 12th June, 1947, concerning partial legal aid for the poor (J. of L., No. 49, item 253) became defunct.

Among other legislative acts dealing with matters of civil law, or closely connected with it, the following may be mentioned:

1) An order of the Minister of Justice, 24th December, 1964, defining the State notary public offices which were to take over the registers of land and property (J. of L., No. 1, item 3). This order was issued on the basis of Art. 1 § 3 and Art. 8 § 1 of the statute of 16th November 1964, which ordered the land and property registers to be taken over by the State notary public offices (J. of L., No. 41, item 278). An order published by the Minister of Justice on 7th June, 1965 (J. of L., No. 26, item 177) extended the list of notary public offices covered by the aforesaid order. These orders came into effect on the day of their promulgation.

2) An order published by the Minister of Foreign Trade on 19th May, 1965 on the principles and manner whereby state commercial units may give orders for goods, work or services connected with articles to be exported (J. of L., No. 21, item 136) was issued on the basis of Art. 6 § 2 of the Statute of 28th December 1957 on supplies, work and services for State units (J. of L., 1958, No. 3, item 7). The order came into effect two weeks after its promulgation, and supplanted the order issued by the Minister of Foreign Trade on 29th August, 1960, on the principles and manner according to which State commercial units may give orders for supplies, work or services connected with articles to be exported (J. of L., 1960, No. 43, item 264, 1962, No. 22, item 102, and 1963, No. 34, item 201).

3) An order was issued by the Minister of Finance on 9th June, 1965, amending a previous order concerning the way payment should be calculated for supplies, work, and services between units of the socialized economy (J. of L., No. 25, item 171). It amended § 2 al. 1 of the order of 13th August, 1958 on the way payment should be calculated for supplies, work and services between units of the socialized economy (J. of L., 1958, No. 54, item 264, 1960, No. 33, item 188, 1961, No. 46, item 251, and 1962, No. 52, item 258), and supplemented this last order by § 4a, which regulated the question of payment of contractual damages to be paid for the non-fulfilment, defective fulfilment, or unpunctual fulfilment of obligations arising from contracts on supplies, work, or services. This order came into effect a month after its promulgation.

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