

The Marriage Act

Conclusion of marriage

Who can conclude marriage

Marriage can be concluded by anyone

- who is 18 years old
- who is not married or whose registered partnership is not in force.

...and with whom?

Marriage is not allowed between close relatives. Therefore marriage is forbidden:

- between a child and his/her parent as well as between siblings and half siblings
- when one of those intending to marry is a descendant of the other's brother or sister (e.g. uncle and niece)
- between an adopted child and the adoptive parent.

In the two latter cases marriage is, however, permissible under permission of the Ministry of Justice.

Examination of impediments to marriage

Before the ceremony, those intending to marry must together request an examination of impediments to marriage. The request is presented to the Finnish Digital Agency. The impediments to marriage can also be examined by a parish of the Evangelical-Lutheran Church or the Greek Orthodox Church if the engaged persons belong or one of them belongs to the parish. When requesting an examination of impediments to marriage, those intending to marry have to sign an assurance stating that there is no impediment to the intended marriage.

Certificate of the examination of impediments to marriage

When the examiner of the impediments to marriage has established that no impediments exists for the marriage, he shall issue a certificate thereof to those intending to marry. The certificate may not be issued earlier than on the seventh day after the request for an examination of impediments to marriage.

The certificate on the examination of impediments to marriage is valid for four months after its issue. After this period, a marriage cannot be concluded until the impediments have been re-examined.

The preconditions for a religious ceremony

A religious marriage ceremony can be concluded:

- in an Evangelical-Lutheran Church
- in a Greek Orthodox Church
- in such other religious community, a member of which has a licence to perform marriage ceremonies.

A religious marriage ceremony cannot be performed before the impediments to marriage have been examined and a certificate thereof has been issued to those intending to marry. In addition, the right to a religious marriage ceremony depends on the own rules of each religious community. Each religious community itself decides on these other terms of a religious marriage ceremony.

The preconditions of a civil marriage ceremony

A civil marriage ceremony can always be performed when the impediments to marriage have been examined and a certificate thereof has been issued to those intending to marry.

Who performs the ceremony?

Under the Marriage Act, a religious marriage ceremony may be performed by:

- a minister of the Evangelical-Lutheran Church
- a minister of the Greek Orthodox Church
- a person who has the right to perform marriage ceremonies in a registered religious community.

Civil marriage ceremony shall be performed by:

- a Chief Judge of a District Court, a District Judge and a Junior District Judge
- a Trainee District Judge assigned to perform marriage ceremonies
- a District Registrar and a Notary Public working at a Finnish Digital Agency.

The rights and obligations of the spouses in marriage

The maintenance obligations of the spouses during marriage

During the marriage, each spouse shall participate in the common household of the family and the maintenance of the spouses to the best of his/her abilities. Where necessary, also during the marriage it can be confirmed that one of the spouses has to pay maintenance to the other. The amount of the maintenance and its manner of payment can be confirmed either by an agreement or a court decision.

...and after divorce

Upon granting a divorce, the Court may order a spouse to pay maintenance to the other spouse if this is deemed reasonable. The maintenance may be confirmed payable in periodic instalments or as a lump sum. The amount of maintenance and its method of payment can also be confirmed by agreement. The agreement shall be presented to the Municipal Board of Social Welfare for confirmation.

The duty of the parents to pay maintenance to their children and the confirmation of the maintenance is governed by Act on Child Maintenance.

Debts of the spouses and liability for the debt of a spouse

During marriage, a spouse is liable for a debt he or she has taken himself/herself. Nor will a spouse, after dissolution of marriage, become liable for a debt taken by the other spouse alone. However, if the spouses so wish, they can raise a common loan. The spouses are also jointly liable for a debt taken by one of the spouses alone for the maintenance of the family (e.g. in a case where the spouse has purchased food supplies or necessary furniture on credit).

Property of the spouses

Marriage does not result in changes in the ownership of property of the spouses. Property belonging to a spouse upon the conclusion of the marriage will remain his/her property also after the marriage. Likewise will property which a spouse acquires during the marriage or receives as inheritance or gift belong solely to him/her.

However, the spouses can also acquire property jointly, e.g. by jointly purchasing residential shares and paying the purchase price fifty-fifty from their own funds.

Marriage settlement

The spouses can, either before the conclusion of the marriage or during the marriage, execute a marriage settlement. In a marriage settlement the spouses can agree that when the marriage is dissolved, the

property of the spouses is not divided equally, but each spouse keeps his or her property. The marriage settlement can also stipulate that a spouse has no matrimonial right to certain property belonging to the other spouse, such as for instance a farm obtained as inheritance.

The marriage settlement is concluded in writing. It is dated and signed. In addition, two non-disqualified persons must attest it. The marriage settlement enters into force when it has been registered by the Finnish Digital Agency. The marriage settlement may be submitted for registration to any service location of the Finnish Digital Agency.

The marriage settlement can be quite a complicated agreement. When considering a marriage settlement, it is appropriate to turn to an attorney, the State Legal Aid Office or another skilled lawyer.

Protection of the common home and household goods

The Marriage Act aims that the home and the movable property in it remain available to the family also when this property belongs solely to one spouse. Therefore the spouse owning the home or household goods may not, without the consent of the other spouse, sell or otherwise convey property intended solely or mainly to be used as the common home of the family nor the movable property belonging to this home. These restrictions on the sale or other conveyance of the home relate both to a real estate used as the home and to a residential flat. The consent is necessary also when for example a residential flat belongs in equal shares jointly to the spouses and one of the spouses intends to sell his/her share to a third party.

Family mediation

Family mediation is a special social service provided for in the Marriage Act. Family mediation is most commonly used in a situation where spouses are contemplating the possibility of a divorce or have already decided to get divorced. Mediation may also be used to find a solution to disagreements arising after a divorce, for example if the divorcing spouses disagree on the meetings with their common child. The goal of mediation is to solve the disputes by way of negotiations and agreements between the parties. The mediator shall pay special attention to securing the position of the children in the family.

Cohabiting partners and registered partners may also use family mediation services.

The use of mediation services is based on voluntariness. Discussions conducted during a family mediation process are confidential.

The municipal social welfare services are responsible for providing family mediation services. Also other instances and persons authorised to provide mediation services offer family mediation (for more information, see the brochure Family mediation). Further information on family mediation is available at the municipal social welfare services.

Dissolution of marriage

A marriage may be dissolved by a court decision (divorce). Divorce may be granted after a reconsideration period of six months or after the spouses have lived separated for at least the past two years without interruptions. When dealing with a divorce case, the court does not examine the reasons for a divorce petition.

A written divorce petition shall be submitted to a district court. The petition may be filed by the spouses jointly or by one of the spouses alone. The petition may be taken to the registry of the district court personally or sent to the court by mail, fax or e-mail.

If only one of the spouses petitions for divorce, the district court serves the petition on the other spouse and reserves him or her an opportunity to issue a written statement containing his or her opinion on the petition.

Divorce after a reconsideration period

If the spouses file a joint divorce petition, the reconsideration period begins when the petition arrives at the district court. If the petition is filed by one of the spouses alone, the reconsideration period begins when the petition is served on the other spouse. The district court informs the parties when the reconsideration period has begun and gives them instructions on how to proceed if they wish to be granted a final divorce.

Once the reconsideration period has ended, the spouses jointly or one of the spouses alone may file a petition for final divorce. The petition must, however, be filed within one year from the beginning of the reconsideration period. The petition for final divorce is filed in the same manner as the first petition for divorce.

Divorce without a reconsideration period

The spouses may be granted a divorce without a reconsideration period, if they have lived separated for at least the past two years without interruptions. The separation must be proved for example by presenting an extract from the Population Information System.

Other matters to be dealt with in connection with a divorce

In connection with a divorce petition, the following may also be claimed at the district court:

- an order on the end of cohabitation and an order determining which of the spouses may continue to live in the common home;
- a decision on child custody, living arrangements of a child and right of access to a child;
- a decision on maintenance payable to a child or a spouse;
- an appointment of an estate distributor to carry out a distribution of matrimonial property.

The above mentioned matters may be heard and decided at the district court also in a separate trial.

Matters concerning child custody and right of access or maintenance payable to a child or a spouse may also be decided by making an agreement at the social welfare office. An agreement confirmed by the social welfare authorities is as legally binding as a court decision. Further information on the agreements is available at the municipal social welfare services.

Further information on the legal questions related to divorce is provided by the state legal aid offices, private advocates and other lawyers.

Distribution of the property of the spouses

...when the marriage is dissolved due to the death of a spouse

When a marriage is dissolved through the death of a spouse and the deceased spouse has left direct heirs (children or their descendants), the widow(er) and the heirs of the deceased can request a distribution of matrimonial property.

In this distribution of matrimonial property, the main rule is to divide all property equally. The surviving spouse obtains half of the property and the heirs together the other half. After the distribution of the matrimonial property, each heir may further demand the distribution of the inheritance between the heirs.

However, the property is distributed equally like this only when surviving spouse has less property than the deceased spouse. If, on the other hand, the surviving spouse has more property than the deceased spouse, the surviving spouse always has the right to right himself/herself to keep all of his/her property.

Example 1: Matti and Maija are married and their marriage is dissolved through Matti's death. Matti's heirs are the children A and B of the spouses. Matti's property is worth 200,000 euros and Maija's 100,000 euros. In this case the distribution of the matrimonial property is carried out so that Maija obtains half of the aggregate property (300,000 euros), i.e., 150,000 euros, and the children A and B together likewise 150,000 euros. In other words: because in this case the surviving spouse, Maija, has less property than the deceased spouse, Matti, the property of the spouses is divided equally between Maija and the children A and B.

Example 2: If, in the previous example, the marriage had dissolved through Maija's and not Matti's death, Matti may keep all of his property (200,000 euros) and the children A and B only get the property that belonged to their mother Maija (100,000 euros). In other words: because the surviving spouse, Matti, had more property than Maija, Matti may keep all of his property himself and he does not have to give any of his property to the children A and B.

In addition to that above, the surviving spouse is ensured the right to keep the joint home of the family and the household goods in his/her possession if the surviving spouse does not own another residence suitable as a home.

If a marriage is dissolved through the death of a spouse, but the deceased spouse left no direct heirs (children or their descendants), the surviving spouse inherits all the assets of the deceased spouse unless the deceased spouse has ordered otherwise in a will. After the death of both spouses, the property left by the spouse last deceased shall, under the main rule, be divided equally between the heirs of both spouses.

...and in a divorce

When a divorce case has become pending in the District Court, each spouse may demand the distribution of the matrimonial assets. The spouses need not wait until the end of the six-month reconsideration period or until the final divorce order, but the distribution can be carried out as soon as the matter has become pending. In a distribution of property on the basis of a divorce, the main rule is to divide all the property of the spouses equally between them.

Example 3: Matti and Maija make a joint application for divorce. The distribution of matrimonial property may be carried out after the application has been filed with the court. Matti's property is worth 200,000 euros and Maija's 100,000 euros. In this case the distribution of the matrimonial property is, under the main rule, carried out so that each obtains half of the property of the spouses (300,000 euros), i.e., 150,000 euros.

However, one must remember that the equal distribution of property is only the main rule, which can be derogated from. Derogation from this main rule may especially be based on the spouses having concluded a marriage settlement or on the fact that a spouse demands that the distribution of matrimonial assets be adjusted to obtain a reasonable result.

Marriage settlement and the distribution of matrimonial assets

A marriage settlement affects the distribution of matrimonial assets. A marriage settlement relates to the distribution both when the marriage is dissolved through the death of a spouse and when the distribution is carried out on the basis of a divorce.

In practice the most common is a marriage settlement ordering that neither spouse has a matrimonial right to the property of the other. This means that upon the dissolution of the marriage, the property of the spouses is not divided equally but each spouse keeps his/her property himself/herself.

The marriage settlement can also stipulate that a spouse has no matrimonial right to certain property belonging to the other spouse, such a farm obtained as inheritance. This order means that all other property except the farm referred to in the marriage settlement is divided equally between the spouses.

However, a marriage settlement is not necessarily binding. Its stipulations may be derogated from or it may be set aside altogether in the adjustment of the distribution of matrimonial property if compliance with the marriage settlement would result in an unreasonable result.

Adjustment of the distribution of matrimonial property

The adjustment of the distribution of matrimonial assets means that in an individual case, on the basis of consideration, the rules otherwise applicable to the distribution of matrimonial property may be derogated from.

The distribution of matrimonial assets can be adjusted if the distribution would lead to:

- an unreasonable end result; or
- to the other spouse receiving unjust financial benefit.

When considering the adjustment of the distribution of matrimonial assets, special attention shall be paid to:

- the duration of the marriage;
- the activities of the spouses for their common household or for the accumulation and preservation of the property; and to
- other comparable facts regarding the finances of the spouses.

The adjustment of the distribution of matrimonial assets thus takes place paying attention to perspectives of reasonableness and justice separately in each individual case. Therefore no general rules can be set in advance as to when the adjustment of the distribution of matrimonial assets is possible, how the adjustment is carried out or how often the adjustment is applied.

The most common examples where the adjustment is to be considered can, nevertheless, be described by means of the following two examples:

Example 1: Short marriage without children, no marriage settlement. Matti and Maija conclude marriage. After the marriage has lasted two years, the spouses are granted a divorce. Matti has property worth 600,000 euros and Maija has a flat worth 200,000 euros. Both are gainfully employed and there are no children. Under the main rules applicable to the distribution of matrimonial property, the property of the spouses (800,000 euros) would be divided equally so that Matti would have to give 200,000 euros of his assets to Maija. Under the rules on the adjustment of the distribution of matrimonial assets, it can, however, be decided that each shall keep his/her own property, because otherwise Maija would receive an unjust financial benefit after a short marriage.

Example 2: Long marriage – marriage settlement: Antti and Raija are granted a divorce after a marriage of 16 years. The spouses have children aged 14 and 12 from the marriage. Antti's monthly income is 4,000 euros and Raija's 2,000 euros. Raija has been at home for ten years taking care of the home and the children. The only property of the spouses is a flat worth 400,000 euros in Antti's name; the spouses have no debts.

Under the marriage settlement concluded by Antti and Raija, neither has a matrimonial right to the property of the other, which means that upon the distribution of property, Antti would keep the flat in his name and Raija would obtain no property at all. Under the rules on the adjustment of the distribution of matrimonial assets, the stipulations of the marriage settlement may be disregarded and the property (400,000 euros) can be divided equally between the spouses, because compliance with the marriage settlement would lead to an unreasonable end result taking into consideration the duration of the marriage, the financial position of the spouses and Raija's activities for the common household. In this case each will obtain property worth 200,000 euros.

How is the distribution of matrimonial assets carried out?

The distribution of the matrimonial assets can be carried out either so that

- the parties carry out the distribution themselves in accordance with a mutual agreement (distribution by agreement); or
- the distribution is carried out by an estate distributor appointed by the court, usually an attorney (official distribution).

When the distribution is carried out by agreement, the distribution shall be reduced to a document, which must be dated and signed and attested by two non-disqualified persons. If an estate distributor carries out the distribution, he drafts it in the form of a document, which he signs.

When clarifying the property relations of the spouses and when planning the distribution of the matrimonial assets, there is always reason to turn to an attorney, the State Legal Aid Office or another skilled lawyer. At that point it is appropriate also to inquire whether compensation for the litigation costs is obtainable from legal security insurance (home insurance) or legal aid paid from State funds.