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Marriage Act

(234/1929; amendments up to 1226/2001 included)

Part I — CONCLUSION AND DISSOLUTION OF MARRIAGE (411/1987)

Chapter 1 — General provisions (411/1987)

Section 1 (411/1987)
(1) A woman and a man who have agreed to marry each other shall be considered engaged.
(2) Marriage shall be concluded by a marriage ceremony.
(3) Before the marriage ceremony it shall be certified that there are no impediments to the marriage.

Section 2 (411/1987)
(1) The spouses shall be equal. In the marriage, they shall display mutual trust and together work for the good of the family.
(2) Each spouse shall, herself or himself, have the right to decide whether to engage in gainful employment and in societal and other activities outside the family.

Section 3 (411/1987)
Marriage shall dissolve when one of the spouses dies or when the spouses are granted a divorce.

Chapter 2 — Impediments to marriage (411/1987)

Section 4 (411/1987)
(1) A person under 18 years of age shall not marry.
(2) The Ministry of Justice may, however, for special reasons grant a person under 18 years of age a dispensation to marry. Before the matter is decided, the custodian of the applicant shall be reserved an opportunity to be heard if his or her whereabouts can be determined with reasonable measures.

Section 5 has been repealed.

Section 6 (1226/2001)
No person shall marry if his or her prior marriage is still in force. Likewise, no person shall marry if his or her registered partnership is in force.

Section 7 (411/1987)
(1) No person shall marry her father, his mother, his or her grandparent or other direct ascendant, nor his or her child, grandchild or other direct descendant.
(2) Siblings or half-siblings shall not intermarry.

Section 8 (411/1987)

An adoptive parent and an adopted child shall not intermarry. The Ministry of Justice may, however, for especially weighty reasons grant them a dispensation to marry.

Section 9 (411/1987)

Two persons, one of whom is a descendant of the other's brother or sister, shall not intermarry, unless the Ministry of Justice, for special reasons, grants them a dispensation to marry.

Chapter 3 — **Examination of impediments to marriage** (411/1987)

Section 10 (618/1998)

It shall be for the Register Office to examine that there are no statutory impediments to marriage (*examination of impediments to marriage*). The examination of impediments to marriage may also be carried out 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.

Section 11 (411/1987)

(1) The engaged persons shall together request an examination of impediments to marriage from the examiner referred to in section 10. (618/1998)
(2) If a dispensation from the Ministry of Justice is required for the marriage, the dispensation shall at the same time be handed in to the examiner. (448/1999)
(3) If an engaged person has no more than four months earlier been issued a certificate of an examination of impediments to marriage, this certificate shall also be handed in to the examiner in the original.

Section 12 (411/1987)

(1) The engaged persons shall assure the examiner of impediments to marriage in writing that there is no impediment to marriage, as referred to in sections 7—9.
(2) At the same time, both engaged persons shall state in writing whether he or she has concluded a prior marriage or registered partnership. If the information available to the examiner of impediments to marriage does not indicate that the prior marriage or registered partnership has been dissolved, the person in question shall provide the examiner with a certificate or another special account thereof. (1226/2001)

Section 13 (411/1987)

(1) If the examiner of impediments to marriage finds no statutory impediment to the marriage, he shall issue a certificate thereof.
(2) The certificate shall not be issued earlier than on the seventh day after the request for an examination of impediments to marriage was made. The certificate may, however, be issued earlier if there are weighty reasons for the same.

Chapter 4 — **Marriage ceremony** (411/1987)

Section 14 (411/1987)

(1) A marriage ceremony shall be performed in the presence of relatives or other witnesses either as a religious or a civil ceremony.
(2) A religious ceremony may be performed in an Evangelical Lutheran church or in a Greek Orthodox church or in another religious community to which the Ministry of Education has granted a license to perform marriage ceremonies.
(3) Provisions on the registration of licenses to perform marriage ceremonies shall be issued by Decree. (417/1993)

Section 15 (411/1987)

The engaged persons shall be simultaneously present at the marriage ceremony. After both engaged persons have given the officiator of the ceremony an affirmative answer to the question whether he or she wants to marry the other, the officiator shall pronounce them husband and wife.

Section 16 (411/1987)

(1) In addition to the provisions in section 15, the other conditions and forms of a religious marriage ceremony shall be laid down by the religious community in question.
(2) Provisions on a civil marriage ceremony shall be issued by Decree.

Section 17 (411/1987)

(1) A religious marriage ceremony may be performed by:
    (1) in the Evangelical Lutheran church by a priest;
    (2) in the Greek Orthodox church by a priest; and
    (3) in another religious community by a person who, under the rules of the community, has the right to perform marriage ceremonies.
(2) A civil marriage ceremony shall be performed by:
    (1) the Chief Judge of a District Court, a District Judge, and
    (2) a District Registrar. (1428/1992)

Section 18 (411/1987)

(1) A marriage ceremony shall not be performed if the officiator is aware of a fact that forms an impediment to the marriage or if the officiator deems that an engaged person is evidently unable to understand the significance of marriage due to his or her disturbed state of mind.
(2) Before performing the marriage ceremony, the officiator shall make sure that the examination of impediments to marriage has been carried out in accordance with the provisions in sections 11—13. If the certificate referred to in section 13 has been issued more than four months before, the marriage ceremony shall not be performed on the basis thereof.

Section 19 (411/1987)

(1) A marriage ceremony shall be void if it has not been performed in accordance with the provisions of section 15 or if the ceremony has been performed by a person without the right to perform marriage ceremonies.
(2) The President of the Republic may, however, for especially weighty reasons decide that a marriage ceremony void under paragraph (1) shall be deemed valid. A petition to this effect may be filed by either of the persons married or, if one of them is dead, by his or her heirs.

Chapter 5 — **Family mediation** (411/1987)

Section 20 (411/1987)

(1) Disputes and legal matters arising in a family should primarily be settled in negotiations between the family members and decided by agreement.
(2) There are family mediators who render assistance and support, upon request, when disputes arise in a family.
(3) Mediators may render assistance and support upon request also in the event that disputes arise as to compliance with a court order or an agreement on child custody and right of access. (622/1996)

Section 21 (411/1987)

(1) A mediator shall aim for a confidential and open discussion between the family members. He or she shall aim for a consensus as to how to solve the disputes in the family in the best possible way for all the persons concerned.

(2) The mediator shall pay special attention to securing the position of the minor children in the family.
(3) The mediator shall assist the persons concerned in concluding agreements and in other measures necessary for the settlement of disputes.

Section 22 (411/1987)
(1) The general planning, monitoring and control of family mediation shall be a task of the State Provincial Offices, under the supervision of the Ministry of Social Affairs and Health. (101/1991)
(2) The Municipal Board of Social Welfare shall be in charge of arranging family mediation in a municipality. Mediation may be rendered also by societies, associations and foundations, as well as individuals, authorised thereto by the State Provincial Office.
(3) The Ministry of Social Affairs and Health shall issue more detailed instructions and guidelines on family mediation. (101/1991)

Section 23 (411/1987)
(1) An authorisation to render family mediation may be granted, upon application, to a society, association or foundation considered capable of rendering it competently. An authorisation may be granted, upon application, also to an individual who is familiar with child welfare or family guidance work or with family law and who, by virtue of his or her previous experience and personal characteristics, is adequately competent to work as a mediator.
(2) The authorisation shall be granted for a fixed period, not exceeding five years at a time. The authorisation may be revoked, if there is a reason for the same.
(3) When granting the authorisation, the State Provincial Office may also issue more detailed instructions concerning the district and tasks, as well as the obligation to supply the Office with information necessary for monitoring the mediation.

Section 23a (411/1987)
The duty of secrecy of the mediator shall be governed by the provisions of sections 57(1), 58(1) and 58(3) of the Social Welfare Act (710/1982). The provisions in section 56 of the Social Welfare Act on the obligation to supply and to receive information do not apply to the mediator.

Chapter 6 — **End of cohabitation and divorce** (411/1987)

End of cohabitation

Section 24 (411/1987)
(1) Upon the joint petition of the spouses or upon the petition of one of the spouses, a court of law may:
  (1) order that the spouse who is in greater need of a residence shall have the right to continue to live in the common home;
  (2) order the other spouse to vacate the common home; and
  (3) give a spouse the right to use movables that belong to the other spouse and which form part of the household goods meant for common use or a tool of the other spouse or which are meant for the personal use of the other spouse or the children; this right of use shall not be restricted by an agreement concerning the said goods entered into by the owner and a third party.
(2) *Paragraph has been repealed.*
(3) The court order shall be immediately enforceable, even if it is not yet final, unless otherwise provided in the order.
(4) The court order shall be in force until further notice. Upon the request of a spouse the order may be changed or revoked through a new court order, if the circumstances have changed after the order was issued. The orders referred to in paragraph (1) shall lapse when the distribution of matrimonial property or a

separation of property has taken place between the spouses and it has become final. The orders shall in any event lapse two years from the date of the order even if no distribution or separation of property has taken place.

Divorce

Section 25 (411/1987)

(1) The spouses shall have the right to a divorce after a reconsideration period.

(2) However, the spouses shall have the right to a divorce without a reconsideration period if they have lived separated for the past two years without interruption.

Section 26 (411/1987)

(1) The reconsideration period shall begin upon the date when the joint petition of the spouses for the dissolution of the marriage is filed with the court or the court registry or the petition of one spouse is served on the other spouse.

(2) After a reconsideration period of at least six months, the spouses shall be granted a divorce upon their joint request or upon the request of one of the spouses. The request shall be made within one year of the beginning of the reconsideration period.

Section 27 (411/1987)

(1) The spouses shall be granted a divorce without a reconsideration period:
   (1) if the spouses are each other's direct descendants or ascendants, siblings or half-siblings; or
   (2) if their marriage was concluded while a prior marriage or registered partnership of one of the spouses was still in force, and the said prior marriage or registered partnership has not yet been dissolved.
   (1226/2001)

(2) The public prosecutor shall initiate proceedings for the divorce of the spouses upon grounds of paragraph (1).

(3) If a marriage was concluded while a former marriage was still in force, each of the spouses in the said former marriage shall have the right to a divorce without a reconsideration period.

Court proceedings

Section 28 (411/1987)

(1) Proceedings for a divorce or end of cohabitation shall be initiated by way of a petition which may be filed by both spouses jointly or one of the spouses alone.

(2) If the petition has been filed by one spouse alone, the court shall reserve the other spouse an opportunity to be heard. The court shall serve the notice and the petition on the other spouse in accordance with the provisions on the service of summonses.

Section 29 (411/1987)

If the matter cannot be immediately decided because the spouses cannot be granted a divorce without a reconsideration period, the court shall suspend the proceedings with regard to the divorce. At the same time, the court shall issue instructions regarding the further handling of the matter after the reconsideration period. The court shall also inform the spouses of the availability of family mediation to them or their family, as referred to in section 20.

Section 30 (411/1987)

The court proceedings relating to divorce shall be reopened after the reconsideration period at the request of the spouses or one spouse, as provided in section 28.

Section 31 (411/1987)

(1) In connection with proceedings relating to divorce or the end of cohabitation, the spouse(s) may request an order on maintenance and child custody and right of

access, as well as make other requests pertaining to the divorce or end of cohabitation.

(2) In proceedings relating to divorce or the end of cohabitation, the court may issue an interim order regarding a request referred to in paragraph (1) or an order to end cohabitation.

(3) The interim order shall not be subject to appeal.

(4) The interim order shall be in effect until the court decides on the matter unless the order is changed or revoked prior to that.

Section 32 (411/1987)

(1) In proceedings relating to divorce or the end of cohabitation, the court shall, upon its own initiative, consider how child custody and right of access should be arranged between the spouses, in the best interests of the child.

(2) When considering child custody and right of access, the court shall pay special attention to the fact that the purpose of child custody and right of access is to ensure for the child a positive and close relationship to both parents.

(3) On the request of a parent or the Municipal Board of Social Welfare, the court shall issue an order regarding child custody and right of access, in accordance with the provisions of the Act on Child Custody and Right of Access (361/1983).

Part II — **LEGAL RELATIONS BETWEEN SPOUSES**

Chapter 1 — **General provisions**

Section 33

(1) Marriage shall not restrict the right of a spouse to enter into transactions unless otherwise provided in chapter 2, nor his or her right to sue and be sued.

(2) Spouses may enter also into mutual transactions, taking into account the provisions in chapter 3.

Chapter 2 — **Property of spouses**

Section 34

The property that a spouse has when concluding marriage shall remain his or hers. He or she shall also own what he or she acquires during the marriage.

Section 35

(1) Each spouse shall have a marital right to the property of the other spouse. Under this right, the surviving spouse and the heirs of the deceased spouse, or each of the spouses, shall acquire half of the net property of the spouses at the distribution of matrimonial property, as further provided in Part IV.

(2) A spouse shall, however, not have a marital right to property excluded from the scope of the marital right by a marriage settlement, a gift deed or a will, nor to property acquired in lieu of such property. If it has further been stipulated that no marital right shall exist as to the proceeds of such property, the said stipulation shall be observed.

(3) The provisions on marital right shall apply to a right which cannot be conveyed or which otherwise is of a personal nature only when this is not in contradiction with any specific provisions on such a right.

(4) If the property of a spouse has been surrendered in bankruptcy, neither spouse shall have a marital right to the other spouse's property if the other spouse so requests in writing from the court referred to in section 43 within a year from the beginning of the bankruptcy. The provisions in section 43(2) on a marriage settlement apply to a written request referred to herein.

Section 36

Each spouse shall administer his or her property subject to the restrictions referred to in sections 37—39.

Section 37

Property subject to the marital right of the other spouse shall be administered so that it will not unnecessarily decrease to the detriment of the other spouse.

Section 38 (542/1995)

(1) A spouse shall not convey real property intended for use as the common home of the spouses, unless the other spouse consents to the same in writing. However, the consent of the other spouse shall not be necessary, if the property to be conveyed is mainly intended for some other use and if the home and the property on which it stands cannot be excluded from the conveyance without causing a considerable reduction in the value of the real property. The provisions in this paragraph on real property apply also to a building located on the land of another and to the right of use of the land. The establishment of a leasehold over the real property or of another right of use thereof shall be deemed corresponding to a conveyance.

(2) A transaction entered into by one spouse in violation of the provisions in paragraph (1) shall be declared void, if the other spouse brings an action to this effect within three months of becoming aware of the transaction. However, a conveyance of real property shall gain validity, if the title of the acquirer has been registered, and the aquifer did not know nor should have known at the material time that the conveyer was not entitled to convey the property in question. The provisions in this paragraph on the registration of title apply, in so far as appropriate, to the effects of the registration of a leasehold or of another right of use of the real property.

Section 39 (411/1987)

(1) Without the consent of the other spouse, a spouse shall not convey or transfer:
   (1) *Subparagraph has been repealed.*
   (2) Stock, a leasehold or other rights entitling to the possession of an apartment which is intended solely or mainly to be used as the common home of the spouses;
   (3) movable property which forms part of the common household goods used by both spouses;
   (4) any necessary tools used by the other spouse; or
   (5) movable property which is meant for the personal use of the other spouse or the children.

(2) Consent of the other spouse is, however, not necessary with regard to property referred to in paragraph (1)(3)—(1)(5) if obtaining the consent would cause unreasonable inconvenience and delay due to the absence of the other spouse or other comparable reason.

(3) A transaction concluded without complying with the provisions of paragraphs (1) and (2) shall be declared void and the acquirer of the property or right shall be ordered to restore the property or right if the other spouse brings an action thereon within three months after becoming aware of the transaction. The transaction shall, however, gain validity if the acquirer of the property or right has obtained possession of the apartment or other movable property and if he or she at the material time had reason to assume that:
   (1) the other spouse had given his or her consent to the transaction or had approved it;
   (2) the spouse was, under paragraph (2), entitled alone to dispose of the property; or
   (3) the property in question was not property referred to in paragraph (1).

(4) The above provisions on conveyance shall apply also to a transaction conveying the common home referred to in paragraph (1)(1)—(1)(2) as well as to a transfer of a right of usufruct or possession of property referred to in paragraph (1)(3)—(1)(5) to a

third party. The right of a spouse to give notice on a residential lease shall be governed by the provisions of the Act on Residential Leases.

Section 40 (411/1987)

A court may, upon petition, grant permission to a conveyance referred to in sections 38 and 39 or to another transaction if the other spouse has refused to consent or if, for some other reason, it has not been possible to obtain the said consent.

Section 40a (139/1964)

(1) If a spouse, without due regard to the marital right of the other spouse, by donating property other than that referred to in section 38, has caused his or her property essentially to decrease and if, in the distribution of matrimonial property referred to in section 85, the other spouse cannot get full compensation therefor, and if the donee knew or should have known that the gift violated the right of the other spouse, the gift or its value shall be restored in so far as necessary to satisfy the right of the other spouse. The value of the gift shall be determined as of the date when it was fulfilled unless the circumstances require otherwise.

(2) The action for restitution shall be brought within one year of the distribution of matrimonial property; however, no later than within ten years from the fulfilment of the gift.

(3) If an obligation given in the form of a promise of a gift has not been fulfilled at the time of the distribution of matrimonial property, it shall not be fulfilled in so far as it violates the rights of the other spouse.

Chapter 3 — **Marriage settlements and gifts between spouses**

Section 41

(1) In a marriage settlement concluded before or during the marriage, the engaged persons or spouses may exclude from the marital right any property owned or later acquired by a spouse. Likewise they may agree to restore the marital right of a spouse to property previously excluded from the said right by way of a prior marriage settlement.

(2) Agreements between engaged persons or spouses may not effect other than the above exceptions to the provisions on the property relations between the spouses.

Section 42 (448/1999)

A marriage settlement shall be concluded in writing. If a spouse or engaged person is not competent to self conclude a marriage settlement owing to legal incapacity or a restriction of legal capacity, he or she shall obtain his or her guardian's written consent to the agreement.

Section 43 (308/1986)

(1) A marriage settlement shall be submitted to the District Court of either spouse's place of residence. If neither spouse resides in Finland, the marriage settlement shall be submitted to the District Court of Helsinki.

(2) The District Court shall register the marriage settlement. If the parties to the marriage settlement have notified a gift of movable property connected thereto, the Court shall further proceed in accordance with the separate provisions on the registration and publication of gifts in section 6 of the Act on Promises of a Gift. (391/1994)

Section 44 (308/1986)

(1) For a marriage settlement to take effect it has to be submitted to the Court and properly registered. The agreement shall take effect even if it the registration has been performed by a Court other than that referred to in section 43(1).

(2) *Paragraph has been repealed.*

(3) A marriage settlement shall not take effect if it has been submitted to the Court after the marriage has dissolved or at a time when proceedings relating to the divorce of the spouses are already pending. (765/1991)

Section 45 (765/1991)

(1) If a spouse donates movable property to the other spouse, the gift shall be notified to a Court in accordance with the provisions in section 6 of the Act on Promises of a Gift, for the donee to be protected against recovery claims from the creditors of the donor in the event of bankruptcy or enforcement of debts.
(2) However, a gift connected to a marriage settlement need not be separately notified, if the agreement has been submitted to the Court in accordance with the provisions in section 43 and if the parties have notified the gift, the donated property and the time of donation in the marriage settlement. (391/1994)
(3) The provisions of the Act on the Recovery of Assets to a Bankruptcy Estate (758/1991) and in the Enforcement Act apply to the recovery of gifts between spouses.

Chapter 4 — **Maintenance** (411/1987)

Section 46 (411/1987)

(1) Each spouse shall participate in the common household of the family and the maintenance of the spouses to the best of his or her abilities. The maintenance of the spouses means the fulfilment of the common needs of the spouses as well as the personal needs of each spouse.
(2) The amount of maintenance payable to a spouse and the manner of its payment may be confirmed by agreement or by court order.
(3) The right of a child to receive maintenance from his or her parents shall be governed by the Act on Child Maintenance (704/1975).

Section 47 (411/1987)

If a spouse neglects his or her maintenance obligation or if the spouses are separated, the court may order a spouse to pay maintenance to the other spouse in accordance with the principles laid down in section 46.

Section 48 (411/1987)

(1) When the spouses are granted a divorce and a spouse is deemed to be in need of maintenance, the court may order the other spouse to pay him or her maintenance deemed reasonable with a view to his or her ability and other circumstances.
(2) Maintenance may be ordered to be paid until further notice or until the end of a period determined in the order. The maintenance may, however, be ordered to be paid as a lump sum if necessary with a view to the financial and other circumstances of the spouse ordered to pay it.
(3) The obligation to pay maintenance in periodic instalments shall lapse if the spouse to whom the maintenance is granted remarries.

Section 49 (411/1987)

(1) Maintenance under sections 47 and 48 may be ordered to be paid retroactively for a period not exceeding the year prior to the bringing of the action.
(2) A court order regarding maintenance is enforceable even if it is not yet final, unless otherwise stated in the order.

Section 50 (411/1987)

(1) The spouses may conclude an agreement on the maintenance payable to a spouse under section 47 or section 48. The agreement shall be concluded in writing and it shall be presented for confirmation to the Municipal Board of Social Welfare in the municipality in which the spouses reside or one of them resides.

(2) Before confirming the agreement, the Municipal Board of Social Welfare shall consider whether the agreement is to be deemed reasonable with a view to the spouse's need for maintenance, the ability of the other spouse to pay maintenance and other relevant circumstances.
(3) An agreement confirmed by the Municipal Board of Social Welfare shall be enforceable like a final court order.

Section 51 (411/1987)
(1) A court order on maintenance or a maintenance agreement concluded by the spouses can be changed if necessary due to changed circumstances. However, an order or agreement specifying a lump sum maintenance payment cannot be changed after the maintenance has been paid.
(2) When changing the amount of a maintenance, the circumstances prevailing during the six months that precede the bringing of the action may also be taken into consideration.
(3) A maintenance agreement concluded by the spouses may be changed if it is to be deemed unreasonable.
(4) If a court order issued on the maintenance of a spouse or a maintenance agreement is changed or the order is quashed or the agreement is declared void, the court shall consider whether the spouse is to regain all or part of what he or she has paid.

Chapter 5 — **Debts of the spouses**

Section 52
(1) Each spouse shall alone be liable for a debt he or she has incurred before or during the marriage.
(2) Both spouses shall, however, be jointly and severally liable for a debt incurred by a spouse for the maintenance of the family.
(3) The provisions of paragraph (2) shall not apply to a monetary loan taken out by a spouse nor if the creditor knew that the spouses were separated due to a breakdown of their relationship.

Section 53
The spouses shall be jointly and severally liable for a debt incurred by both spouses together during the marriage unless otherwise agreed.

Section 54
If a creditor wants to demand payment from a spouse for a debt referred to in section 52(2) and incurred by the other spouse, he or she shall bring an action within two years from the due date or, if the debt is payable upon demand, from the date it was incurred; if this time limit has expired, no action can be brought.

Section 55 has been repealed.

Section 56
(1) If a spouse misuses his or her right to incur debts for which also the other spouse shall be liable, a Court may declare the said right forfeit. The order may be cancelled by the Court if the spouses agree thereon or if changed circumstances give rise thereto.
(2) The court order shall be published forthwith in accordance with the provisions on the publication of court orders by which a person has been placed under guardianship. If the order is cancelled, this shall be similarly published.

Chapter 6 — **Miscellaneous provisions**

Section 57 has been repealed.

Section 58

If a spouse, without the consent of the other spouse, conveys or pledges joint property or property belonging to the other spouse, the other spouse shall have the right to redeem it. If the third party was not in good faith or if no consideration was paid, the other spouse shall regain the property without redemption.

Section 59

If a spouse has, through a criminal act, caused the death of the other spouse or been party to such an offence, he or she shall receive no part of the other spouse's property under the marital right. If the crime was petty, the court shall, however, deem whether it is to have the said consequence.

Section 60

A spouse shall have the right to demand that the other spouse co-operate in drawing up a list of the movable property belonging to each spouse and that, if a spouse does not have a marital right to certain property, this be recorded in the list. If the said demand is not complied with, a trustee shall, upon the request of the spouse, be appointed to represent the other spouse. The spouse shall have the right to have a notary public or a sheriff certify the date on which the list was presented to him or her. In case of a dispute over the property, the court shall decide the probative value of the list.

Sections 61 and 62 have been repealed.

Section 63

(1) If a spouse permits the other spouse to administer his or her property, the latter spouse shall have the right to use the proceeds of the property for the maintenance of the family without a need to account therefor, unless otherwise agreed or unless it is otherwise to be presumed. The spouse shall, however, give to the other spouse what has not been spent on the maintenance of the family.

(2) A spouse may at any time withdraw the permission referred to in paragraph (1) even if the contrary has been agreed.

Section 64

(1) If a spouse assists the other spouse in the latter's business and wants to receive compensation therefor, he or she shall prove that compensation was agreed upon or meant to be paid, or that its payment, with a view to the nature of the work and the other circumstances, is to be deemed reasonable.

(2) If no compensation was agreed upon, action therefor shall be brought within a year from the end of the calendar year during which the work was performed. Compensation paid thereafter shall be deemed a gift.

Section 65

Necessary articles acquired by a spouse for his or her personal use with funds given by the other spouse under the maintenance obligation shall be the property of the first-mentioned spouse.

Section 66

A gift deed, a written consent, a marriage settlement and a list, as referred to in section 35(2), 38, 42 and 60, shall be dated, properly signed and witnessed by two disinterested persons in order to be valid.

Part III has been repealed.

Part IV — **DISTRIBUTION OF MATRIMONIAL PROPERTY**

Chapter 1 — **General provisions**

Section 85 (411/1987)

(1) When proceedings relating to divorce are pending or when the marriage has been dissolved, a distribution of matrimonial property shall be carried out if a spouse or an heir of the deceased spouse so demands.

(2) If neither spouse has a marital right to the property of the other spouse, a separation of the property of the spouses shall be carried out instead of the distribution.

(3) If the spouses have joint property, the said property shall be divided upon request when the matrimonial property is being distributed or the property of the spouses separated.

Section 86

(1) Until the matrimonial property is distributed, the surviving spouse shall participate in the administration of the estate of the deceased spouse in accordance with the provisions of the Code of Inheritance (42/1965).

(2) During the period referred to above, the surviving spouse shall have the right to alone administer his or her property. However, if the surviving spouse wishes to make a conveyance or enter into another transaction for which the consent of the other spouse would be required under section 38 or 39, he or she shall obtain a court permission or a written consent from the heirs, as provided in section 66, in order to do so. In the distribution of matrimonial property, the surviving spouse shall account for the administration of the property, and for the proceeds accruing therefrom, as from the death of the other spouse. (1152/1995)

(3) If the marriage has been dissolved by a court order, a spouse shall, until the matrimonial property has been distributed, have the right to administer the property he or she had at the time of the dissolution as if the marriage still continued. The provisions in paragraph (2) on the account to be given at the distribution shall likewise apply. (411/1987)

(4) *Paragraph has been repealed.*

Section 87

The distribution of matrimonial property shall not be carried out until all the known debts of the deceased spouse have been paid, or until assets needed for their payment have been set aside, unless the surviving spouse and the heirs of the deceased spouse unanimously agree thereon or unless the property of the deceased spouse has been surrendered into bankruptcy.

Section 88

(1) If the spouses have joint debts, a spouse or the heirs of the deceased spouse have the right, at the distribution of matrimonial property, to demand that the share of the deceased spouse be paid or a security for its payment be given before the distribution.

(2) The spouses shall be deemed liable for a joint debt incurred for the maintenance of the family in proportion to their liabilities to provide funds towards the maintenance of the family.

Section 89

If, in the separation of the property of the spouses, the circumstances do not indicate and it cannot be proved which spouse a movable object belongs to or that it

is joint property, the spouses shall be deemed to have acquired it jointly and with equal rights.

Section 90 (411/1987)

In the distribution of matrimonial property, the following shall be deemed property to which the other spouse has no marital right:

(1) property that a spouse has earned or inherited or received as a gift or under a will after the marriage was dissolved through the death of the other spouse; and

(2) property that a spouse has earned or inherited or received as a gift or under a will after court proceedings for the appointment of an estate distributor or for divorce have been instituted; property shall, however, be deemed subject to the marital right of the other spouse if the proceedings for the appointment of an estate distributor have lapsed or the divorce proceedings have lapsed for another reason than the death of the other spouse during their pendency.

Section 91

Before the distribution of matrimonial property, a spouse has the right first to take clothes and other articles belonging to him or her and meant for his or her personal use only; however, not more than can be deemed reasonable with a view to the circumstances of the spouses.

Section 92

If a spouse has used his or her other property to increase property subject to the marital right of the other spouse, the spouse or his or her heirs shall receive compensation from the property subject to the marital right.

Section 93 (411/1987)

If a debt referred to in section 99(2) or (3) has been deducted from the net property of a spouse in determining its value under the said section, the other spouse or his or her heirs shall receive compensation from net property subject to the marital right of one of the spouses.

Section 94

If a spouse, by mismanaging his or her financial affairs or by misusing his or her right to administer property subject to the marital right of the other spouse or through other action inappropriate to his or her circumstances, has caused the said property essentially to decrease, the other spouse or his or her heirs shall receive compensation corresponding to the said decrease in net property in accordance with section 93. Half of the compensation that cannot otherwise be paid may be taken also from property of the spouse not subject to the marital right, provided that the said property is not needed to cover a debt.

Section 94a (42/1965)

(1) When an advancement given from property subject to the marital right of either spouse has to be deducted from the inheritance of the recipient after the death of either spouse, the value of the advancement or, if all of it cannot be deducted, the amount that can be deducted, shall, in the distribution of matrimonial property, be deducted from the share devolving on the heirs of the deceased spouse or on the beneficiaries under a will.

(2) When, under paragraph (1), the advancement is to be deducted in the distribution of matrimonial property, the amount to be deducted shall, before the distribution, be added to the net property of the spouse who had given the advancement. If the said spouse left also other property, this property shall also be taken into account when deducting the advancement.

Section 95 (411/1987)

Compensation shall be given, in accordance with section 94, also if a spouse has used property subject to the marital right of the other spouse in order to acquire or

to improve property not subject to the said right or in order to pay off a debt referred to in section 99(2) and (3).

Section 96

A spouse or the heirs of the deceased spouse shall not have the right later to claim compensation which cannot be paid at the distribution of matrimonial property.

Section 97 has been repealed.

Chapter 2 — **Procedure in the distribution of matrimonial property**

Section 98

A distribution of matrimonial property shall be carried out according to the provisions on the distribution of a decedent's estate and according to the further provisions in this chapter.

Section 99 (681/1948)

(1) After the property of the spouses has been separated and any compensation payable under section 92 to a spouse has been taken into consideration, the net property of each spouse to which the other spouse has a marital right shall be determined separately by deducting from the value of the property any private debts of the said spouse incurred prior to the dates referred to in section 90(1) and (2) as well as the said spouse's share of debts for which the spouses are jointly and severally liable. (411/1987)

(2) If property not subject to the marital right of the other spouse was pledged as security, in the form of a mortgage or otherwise, for a debt when the marriage was concluded or when the said property was excluded from the marital right by way of a marriage settlement, a gift deed or will, the said debt shall be deducted from the value referred to in paragraph (1) only to the amount that it cannot be paid from the said property or from property acquired in lieu thereof. The same shall apply to a debt incurred by a spouse in order to acquire or to improve property not subject to the marital right of the other spouse.

(3) If a debt is due to the careless administration by a spouse of his or her financial affairs or through other action inappropriate in his or her circumstances, the said debt shall be deducted from the value referred to in paragraph (1) only to the amount that it cannot be paid from property not subject to the marital right of the other spouse.

(4) *Paragraph has been repealed.*

Section 100 (411/1987)

After the provisions of section 99 have been complied with and after the setting aside referred to in section 91 has, at the demand of a spouse, taken place, each spouse shall, in addition to any compensation payable to him or her under section 93, 94 or 95, receive half of the net value of any property subject to the marital right of either spouse, unless otherwise provided in section 59 or 103(2) or unless a spouse is to receive more under section 101 or 102.

Section 101

If a demand to pay a joint debt or to give a security for it has been made in accordance with section 88(1) and the said demand is not complied with, a spouse or the heirs of a spouse shall, if he or she assumes or they assume liability for the whole debt and give a security for it, receive property worth the other spouse's share of the said debt out of property that would otherwise have devolved on the other spouse or his or her heirs in addition to property not needed to pay the said debt or out of other net property devolving on the said parties.

Section 102 (411/1987)

Maintenance payable by a spouse to the other spouse which has fallen due shall be paid at the distribution of matrimonial property, provided that the spouse under the obligation to pay the maintenance receives assets in the distribution or otherwise has assets not needed to cover a debt.

Section 103 (42/1965)

(1) At the distribution of matrimonial property carried out by the surviving spouse and the other spouse's heirs or by the spouses, the party that has to hand over property may decide what to hand over. Instead of property which the party wants to retain, the party in question may hand over money to the value determined for the property at the distribution.

(2) However, if the property of a spouse or the deceased spouse has been surrendered into bankruptcy, the other spouse or the heirs need not hand over property in the distribution of matrimonial property. In a distribution carried out owing to the death of a spouse, the surviving spouse need not hand over his or her property to the heirs of the deceased spouse. (765/1991)

(3) If a spouse is to receive property from the other party, he or she may, irrespective of the provisions of paragraph (1), receive tools and other movables which he or she needs in order to carry on his or her business if this can take place without causing essential harm to the other spouse. (705/1975)

Section 103a (681/1948)

(1) When the distribution of matrimonial property is carried out after the death of a spouse and the value of the property to be distributed is small, the surviving spouse may take from property not excluded from the marital right the necessary household goods and tools and other movables he or she needs in order to carry on his or her business even if the heirs of the other spouse do not therefore receive the property which they otherwise would be entitled to in the distribution.

(2) *Paragraph has been repealed.*

Section 103b (411/1987)

(1) The distribution of matrimonial property may be adjusted if the distribution would otherwise lead to an unreasonable result or to the other spouse receiving unjust financial benefit. When considering whether to adjust the distribution, special attention shall be paid to the duration of the marriage, the activities of the spouses for their common household and for the accumulation and preservation of the property, as well as to other comparable facts regarding the finances of the spouses.

(2) When adjusting the distribution of matrimonial property it may be ordered:

  (1) that a spouse is not, under the marital right, to receive any property of the other spouse or that the said right shall be restricted;

  (2) that certain property which the spouse has earned or received while the spouses were living separated or which the spouse had when the marriage was concluded or which the spouse has received during the marriage as an inheritance or a gift or under a will shall totally or partly be excluded from the marital right of the other spouse;

  (3) that all or part of property which has been excluded from the marital right of the other spouse by way of a marriage settlement, shall, in the distribution, be considered as property subject to the marital right of the other spouse.

(3) A demand for the adjustment of the distribution of matrimonial property may be made either at the distribution or thereafter. When made after the distribution, the provisions on contesting a distribution and declaring it invalid shall apply.

Chapter 3 — **Miscellaneous provisions**

Section 104 (765/1991)

If, in the distribution of matrimonial property, a spouse has handed over property to the other spouse or the heirs of the other spouse to an amount considerably exceeding what he or she should have handed over, the distribution may be reversed into a bankruptcy estate in accordance with the provisions in the Act on the Recovery of Assets into a Bankruptcy Estate.

Section 105

When the distribution of matrimonial property has been carried out, a spouse or the heirs of the deceased spouse shall submit the distribution instrument to a Court; and the date of its submission shall forthwith be published in the Official Gazette.

Section 106

Should a spouse or the heirs of the deceased spouse want to contest the distribution of matrimonial property, the provisions on contesting the distribution of a decedent's estate shall apply.

Section 107 (411/1987)

If neither spouse has a marital right to the property of the other spouse, the provisions of sections 89, 98, 101, 102, 103b, 104, 105 and 106 apply, in so far as appropriate, to the separation of their property.

Section 107a (411/1987)

After the distribution of matrimonial property, neither spouse shall have a marital right to the property of the other spouse, unless the spouses otherwise state in a marriage settlement concluded after the distribution.

Part V — **RULES OF PRIVATE INTERNATIONAL LAW** (1226/2001)

Chapter 1 — **Conclusion of marriage** (1226/2001)

Right to marry

Section 108 (1226/2001)

(1) The right of a woman and a man to marry before a Finnish authority shall be determined in accordance with the law of Finland.

(2) If neither the woman nor the man is a Finnish citizen and if neither is habitually resident in Finland, they have the right to marry before a Finnish authority only if the marriage is permissible under the law of Finland and if each of them has the right to marry in accordance with the law of the state whose citizen he or she is or where he or she is habitually resident, or in accordance with the law applicable in one of these states on the examination of impediments to marriage. An engaged person shall present a credible account of his or her right to marry under the law of a foreign state.

(3) If no information can be obtained on the legislation of a state that, under paragraph (2), would govern the right of an engaged person to marry, owing to a state of war or other comparable unstable conditions prevailing in that state, the right of the engaged person to marry may be examined under the law of Finland notwithstanding the provisions in paragraph (2), if the engaged person so requests and if marriage in Finland can be deemed justifiable in view of the links that the engaged persons have to Finland.

Section 109 (1226/2001)

A Finnish authority may grant a dispensation to marry regardless of an impediment to marriage, as referred to in sections 4, 8 and 9, if at least one of the engaged persons is a Finnish citizen or habitually resident in Finland.

Section 110 (1226/2001)

(1) If a marriage is to be concluded before a Finnish authority in a foreign state, and the examination of impediments to marriage has not been carried out in Finland, the authority performing the ceremony shall examine that there are no statutory impediments to marriage.

(2) If the marriage referred to in paragraph (1) is to be concluded in a foreign state whose law requires that its impediments to marriage or some of them are to be taken into account or that its provisions on banns are to be taken into account when the authority of another state is performing a marriage ceremony there, the provisions of that foreign state shall apply as well.

Section 111 (1226/2001)

(1) If a Finnish citizen or a foreign citizen habitually resident in Finland wishes to conclude marriage before an authority of a foreign state abroad or in Finland, he or she shall have the right, upon request, to receive a certificate from an examiner of impediments to marriage to the effect that he or she has the right to conclude the said marriage under the law of Finland.

(2) However, such a certificate shall not be issued, if the information needed for the examination of impediments to marriage is not available in the Population Information System and if the person requesting the certificate does not present any other credible account of the same.

Right of diplomatic representatives and certain clergy to perform marriage ceremonies

Section 112 (1226/2001)

(1) The Ministry for Foreign Affairs may grant a public official serving in a Finnish diplomatic mission abroad the right to perform marriage ceremonies where at least one of the engaged persons is a Finnish citizen.

(2) The Ministry of Education may, upon request and after having obtained an opinion from the Ministry for Foreign Affairs, grant a person who is competent to perform a marriage ceremony in a Finnish religious community the right to perform marriage ceremonies in a foreign state, where at least one of the engaged persons is a Finnish citizen. The right may be connected to a given office, position or commission, or granted to the person in question in his or her own right.

(3) The Ministry for Foreign Affairs and the Ministry of Education may set restrictions or conditions to the right to perform marriage ceremonies, as is necessary on the basis of the legislation of the foreign state in question or the circumstances affecting the need for a right to perform marriage ceremonies.

Section 113 (1226/2001)

(1) The Ministry of Foreign Affairs may, upon request, grant a diplomatic or consular representative of a foreign state in Finland a license to perform marriage ceremonies in Finland in accordance with the formal requirements of that state, where the engaged persons are foreigners and at least one of them is a citizen of the state which the performing official represents.

(2) The Ministry of Education may, upon request and after having obtained an opinion from the Ministry for Foreign Affairs, grant a member of the clergy of a foreign religious community operating in Finland a license to perform marriage ceremonies in accordance with the formal requirements of the foreign state in question, where at least one of the persons to be married is a citizen of that state. The license to perform marriage ceremonies may be connected to a given office, position or

commission of the clergy, or granted to the said member of the clergy in his or her own right.

(3) A marriage ceremony referred to in paragraphs (1) and (2) shall not be performed, if the performing authority is aware of a circumstance constituting an impediment to marriage under section 6 or 7.

Celebration of marriage

Section 114 (1226/2001)

A marriage ceremony before a Finnish authority in Finland or in a foreign state shall be performed in accordance with the formal requirements in the law of Finland.

Chapter 2 — **Recognition of a foreign marriage** (1226/2001)

Prerequisites for recognition

Section 115 (1226/2001)

(1) A marriage concluded by a woman and a man in a foreign state before an authority of that state shall be valid in Finland, if it is valid in the state where it was concluded or in a state whose citizen either spouse was or where either spouse was habitually resident at the conclusion of the marriage.

(2) A marriage performed in another foreign state or, under a license referred to in section 113, in Finland, by the diplomatic or consular representative of a foreign state, a member of the clergy of a religious community of a foreign state or another person entitled by a foreign state to perform marriage ceremonies in another state, shall be valid in Finland, if it is valid in the state which the performing authority represents or in state whose citizen either spouse was or where either spouse was habitually resident at the conclusion of the marriage.

Section 116 (1226/2001)

(1) A marriage that has been concluded in a foreign state after the death of one engaged person or without one engaged person being present in person at the conclusion of the marriage, or that has been concluded merely by practice and without a ceremony or other formality, shall be valid in Finland only if:
   (1) it is valid in a state referred to in section 115(1); and
   (2) there is a special reason why the marriage should be deemed valid in Finland.

(2) In the assessment of whether a marriage referred to in paragraph (1) is to be deemed valid, special attention shall be given to the links of the engaged persons to the state where the marriage was concluded and to the duration of the cohabitation of the spouses.

Jurisdiction of Finnish authorities as regards the validity of marriages

Section 117 (1226/2001)

(1) A matter pertaining to the validity of a marriage may be ruled admissible in Finland, if a matter pertaining to the divorce of the spouses would under section 119 be admissible in Finland.

(2) If the resolution of a matter depends on the validity of a marriage, a Finnish authority may determine the validity in connection with the resolution of the said matter, even if the matter of validity would otherwise be inadmissible under paragraph (1).

Section 118 (1226/2001)

For especially weighty reasons, the President of the Republic may decide that a marriage concluded in a foreign state and not recognised under section 115 or 116 is nevertheless to be deemed valid. A petition to this effect may be filed by either of the married persons or, if one of them is dead, by that person's heirs.

Chapter 3 — **Dissolution of marriage** (1226/2001)

Jurisdiction of Finnish courts

Section 119 (1226/2001)

(1) A matter pertaining to divorce may be ruled admissible in Finland, if:
   (1) either spouse is domiciled in Finland; or
   (2) the petitioner has been domiciled in Finland or otherwise has a close link to Finland and he or she cannot institute divorce proceedings in the foreign state where either spouse is domiciled, or this would cause unreasonable inconvenience to the petitioner, and the admissibility of the matter in Finland is justified in view of the circumstances.

(2) A public prosecutor in Finland may bring an action, as referred to in section 27(2), for the divorce of the spouses, if:
   (1) the marriage ceremony has been performed by a Finnish authority; and
   (2) either spouse is domiciled in Finland.

(3) Moreover, a public prosecutor in Finland may bring an action for the divorce of the spouses if they have married while a prior marriage or registered partnership of either spouse has been in force and the prior marriage or registered partnership has not yet dissolved, provided that both spouses are domiciled in Finland.

(4) A request for the end of cohabitation may be ruled admissible in Finland, if the spouses make their common home here.

(5) The provisions in paragraphs (1)—(3) apply only in so far as not otherwise provided in Council Regulation (EC) No 1347/2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses or in an international agreement binding on Finland.

Choice of law

Section 120 (1226/2001)

The law of Finland applies to a matter pertaining to divorce or the end of cohabitation.

Recognition of foreign judgments

Section 121 (1226/2001)

(1) Where a marriage has been cancelled or the spouses ordered to be separated or divorced by way of a judgment from a foreign state, the judgment shall be deemed valid in Finland without any specific validation:
   (1) if, at the time of the judgment, both spouses were citizens of the state whose authority issued the judgment; or
   (2) if the judgment pertains to spouses neither of whom was a Finnish citizen at the time of the judgment, and one or both of them are citizens of a state other than that whose authority issued the judgment, and the judgment is deemed valid in both spouses' home countries.

(2) A judgment issued by the authority of a foreign state, as referred to in paragraph (1), shall be valid in Finland only if specifically validated, if it concerns:
   (1) spouses at least one of whom was a Finnish citizen at the time of the judgment; or
   (2) spouses referred to in subparagraph (1)(2), where the judgment does not meet the criteria laid down in that subparagraph.

Section 122 (1226/2001)

A judgment referred to in section 121(2) may be validated here, if either spouse, in view of his or her citizenship or domicile, has such a link to the foreign state in question that the authorities of that state can be deemed to have had adequate

grounds of being seised of the matter, and if the judgment is not in essential conflict with Finnish public policy (*ordre public*).

Section 123 (1226/2001)

A petition for validation, referred to in section 122, shall be filed with the Court of Appeal of Helsinki. The decision of the Court of Appeal in the matter shall be subject to appeal before the Supreme Court, if the Supreme Court grants leave to the same by virtue of chapter 30, section 3, of the Code of Judicial Procedure.

Section 124 (1226/2001)

The provisions in sections 121—123 apply correspondingly to a judgment of annulment of marriage issued by the authority of a foreign state.

Section 125 (1226/2001)

(1) The provisions in sections 121—124 apply only in so far as not otherwise provided in the Council Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses or in an international agreement binding on Finland.

(2) If it is requested, on the basis of Article 14(3) of the Regulation referred to in paragraph (1), that a judgment of a member state is to be recognised or not recognised in Finland, the matter shall be brought before the court referred to in chapter 10, section 10, of the Code of Judicial Procedure or, if only the validation of a judgment on child custody is sought, before the court referred to in section 13 of the Act on Child Custody and Right of Access.

Chapter 4 — **Legal relations of spouses** (1226/2001)

Jurisdiction of Finnish courts

Section 126 (1226/2001)

(1) A matter pertaining to the personal legal consequences of marriage may be ruled admissible by a Finnish court, if the defendant is domiciled or habitually resident in Finland.

(2) A matter pertaining to maintenance may be ruled admissible by a Finnish court also if the person entitled to maintenance is domiciled or habitually resident in Finland.

(3) A Finnish court competent in a matter pertaining to divorce may at the same time hear an ancillary matter pertaining to the maintenance payable to a spouse or another matter pertaining to the personal legal consequences of marriage, if the resolution of the latter is necessary owing to the divorce.

Section 127 (1226/2001)

(1) A matter pertaining to matrimonial property may be ruled admissible by a Finnish court, if:
   (1) the defendant is domiciled or habitually resident in Finland;
   (2) the plaintiff is domiciled or habitually resident in Finland and the law of Finland is to apply on the matter pertaining to matrimonial property;
   (3) the last common domicile or habitual residence of the spouses was in Finland, and one of the spouses still is, or at the time of his or her death still was, domiciled or habitually resident here;
   (4) the property to which the matter pertains is located in Finland; or
   (5) the defendant accepts that the matter be admissible in Finland or undertakes to defend his or her substantive position without entering a plea of inadmissibility.

(2) A Finnish court shall always be competent in a matter pertaining to measures undertaken by an estate distributor appointed by a Finnish court.

(3) A Finnish court may register a marriage settlement or an agreement designating the law applicable to matrimonial property regime, even if it under paragraph (1) were not competent to rule a matter pertaining to matrimonial property admissible.
(4) In a petitionary matter, the provisions in paragraph (1) on the plaintiff and the defendant apply to the petitioner and the opposing party.

Choice of law applicable to the personal legal consequences of marriage

Section 128 (1226/2001)
(1) The law of the state where both spouses are domiciled applies to the personal legal consequences of marriage. If the spouses are not domiciled in the same state, the law of the state where both spouses last were domiciled during the marriage applies, if either of them is still domiciled there.
(2) In situations other than those referred to in paragraph (1), the applicable law is the law of the state to which, taking all pertinent circumstances into account, the spouses have the closest link. However, in a matter pertaining to the right to maintenance, the applicable law is the law of the state where the person entitled to maintenance is domiciled.

Choice of law applicable to matrimonial property regime

Section 129 (1226/2001)
(1) Unless otherwise agreed in accordance with the procedure laid down in section 130, the law of the state which became the state of domicile of both spouses after the conclusion of the marriage applies to their matrimonial property matters.
(2) If the spouses have later moved their domicile to another state, the law of that state applies, if the spouses have resided there for at least five years. However, the law of that state applies immediately upon the spouses becoming domiciled there, if they have earlier during the marriage been domiciled there or if both are citizens of that state.
(3) The law applicable to matrimonial property regime shall not change by virtue of paragraph (2), if:
    (1) the spouses have agreed to designate the law applicable to matrimonial property regime in accordance with the procedure laid down in section 130; or
    (2) owing to the dissolution of the marriage, separation or the pendency of divorce proceedings, a spouse has gained the right to demand the distribution of matrimonial property before the time when the law of the other state would become applicable.
(4) If no state has become the state of domicile for both spouses, the applicable law is the law of the state to which, taking all pertinent circumstances into account, the spouses have the closest link.

Section 130 (1226/2001)
(1) Engaged persons and spouses are entitled to designate the law applicable to matrimonial property regime, as provided in paragraph (2). The agreement shall be in writing in order to be valid.
(2) The law of the state where one spouse or both spouses are domiciled or whose citizen a spouse is at the time of the agreement may be designated as the law applicable to matrimonial property regime. If the domicile of one or both spouses has moved to another state during the marriage, also the law of the state where both spouses last were domiciled may be designated as the applicable law.
(3) An agreement on the amendment or cancellation of an agreement referred to in paragraph (1) shall be in writing in order to be valid.

Section 131 (1226/2001)
(1) Especially the following shall be resolved by reference to the law applicable to matrimonial property regime:

(1) issues pertaining to the distribution of matrimonial property after the dissolution of the marriage or during the marriage;
(2) issues pertaining to transactions concerning matrimonial property and entered into by the spouses or the engaged persons;
(3) the right of a spouse to administer property; and
(4) the liability of a spouse for the debts of the spouses.

(2) A change of the law applicable to matrimonial property regime shall not affect the validity of a transaction concluded before the change. However, the validity of provisions in a marriage settlement or an agreement on the future distribution of property shall be assessed in accordance with the law applicable to matrimonial property matters at the time when the issue becomes relevant.

(3) In addition, a transaction concerning matrimonial property and entered into by the spouses or the engaged persons shall be deemed formally valid if it meets the formal requirements in the law of the state where the transaction was concluded or where the spouses were domiciled at the time of conclusion of the transaction. However, if spouses domiciled or habitually resident in Finland conclude a marriage settlement, the provisions in sections 43—44 shall always be observed for the agreement to be valid.

Restrictions in the application of foreign law

Section 132 (1226/2001)

In a matter pertaining to the assessment of maintenance or a change in assessed maintenance, the assessment shall always be based on the need for support of the person entitled to the maintenance and the means of the person liable to provide maintenance, notwithstanding any provisions in the applicable law.

Section 133 (1226/2001)

The provisions in sections 38—40 and 86 on the need for a consent or a permission where a spouse is making a conveyance or entering into another transaction apply even if the matrimonial property regime is governed by the law of a foreign state, if the property in question is located in Finland.

Section 134 (1226/2001)

(1) A distribution of matrimonial property may be adjusted in accordance with section 103b(1) even if the distribution is otherwise governed by the law of a foreign state.

(2) In a distribution of matrimonial property carried out owing to the death of one spouse, the surviving spouse shall have the right to retain possession of the common home of the spouses in Finland, or other housing and furniture in Finland belonging to the estate, as provided in chapter 3 of the Code of Inheritance, even if the distribution is governed by the law of a foreign state, provided that the same is to be deemed reasonable in view of the assets of the surviving spouse and the property that the spouse will acquire in the distribution or by way of inheritance or a will.

Section 135 (1226/2001)

(1) A provision in the law of a foreign state to the effect that the right of a spouse to incur debt or to administer his or her property is more restricted than what is provided in this Act shall be without effect as against a third party, if:
(1) a transaction pertains to the administration of real property located in Finland or the right of use over such property; or
(2) the spouse who entered into the transaction and the third party were in Finland when the transaction was concluded and the third party was not aware and should not have been aware of the restriction.

(2) An agreement by which the spouses have designated the law of a foreign state as applicable to matrimonial property regime shall be without effect as against the creditors of a spouse, if the spouses are domiciled or habitually resident in Finland,

except if the agreement has been submitted for registration, as provided in section 43.

(3) If the spouses are domiciled or habitually resident in Finland, a marriage settlement concluded before both spouses became habitually resident in Finland shall be without effect as against the creditors of a spouse, except if the agreement has been submitted for registration, as provided in paragraph (2).

(4) The registration referred to in paragraphs (2) and (3) shall be without effect as against a creditor whose claim against the spouse has arisen before the registration of the agreement in question.

Distribution of matrimonial property on the basis of separation

Section 136 (1226/2001)

(1) If a foreign judgment on separation has been issued for spouses whose matrimonial property matters are governed by the law of Finland, a distribution of matrimonial property may be carried out on the basis of the separation. In this event, a spouse shall not have a marital right over property that the other spouses acquires after the judgment on separation, and any setting aside of property to cover debts shall be carried out in accordance with the conditions prevailing at the time when the judgment on separation was issued.

(2) The provisions in paragraph (2) do not apply if the spouses resume cohabitation after the issue of the judgment on separation.

Distribution procedure

Section 137 (1226/2001)

(1) Even if the law of a foreign state is applicable to matrimonial property matters, a distribution of matrimonial property may be carried out by agreement between the spouses or by an estate distributor, as provided in the law of Finland.

(2) A distribution of matrimonial property shall comprise all of the property of the spouses regardless of its location, unless the spouses agree otherwise. When determining the property that is to devolve on one spouse, the provisions of the law applicable to matrimonial property matters may be derogated from, if necessary in order to secure a lawful share of the property to the spouse.

Separation of the property of the spouses

Section 138 (1226/2001)

The provisions in this chapter on the distribution of matrimonial property apply also to the separation of the property of the spouses.

Chapter 5 — **Miscellaneous provisions** (1226/2001)

Section 139 (1226/2001)

(1) Unless specifically otherwise provided, a reference in this part to the law of a foreign state does not cover the provisions of Private International Law in the law of that state.

(2) A provision in the law of a foreign state shall be disregarded, if its application would have an outcome contrary to Finnish public policy (*ordre public*).

Section 140 (1226/2001)

The provisions in this part apply only in so far as not otherwise provided in another Act or the international obligations binding on Finland.

Section 141 (1226/2001)

The Ministry for Foreign Affairs and the Ministry of Education may revoke a license granted on the basis of section 112 or 113, if the person in question violates the license conditions or otherwise breaks the law of Finland, or if there otherwise is a reason to do so.

Section 142 (1226/2001)

Where necessary, more detailed provisions on the implementation of this part may be issued by Decree of the Government.

TRANSITIONAL PROVISIONS

(1) The date of entry into force of **Act 1226/2001** is 1 March 2002.

(2) The provisions in force before that date continue to apply, notwithstanding Act 1226/2001, to:
- (1) an examination of impediments to marriage, if requested before the entry into force of the Act;
- (2) a transaction pertaining to matrimonial property, if concluded before the entry into force of the Act;
- (3) the resolution of a matter other than the validity of marriage, if the court proceedings have been pending at the entry into force of the Act;
- (4) the distribution of matrimonial property, if a spouse has died or another decisive event, in view of the distribution, has occurred before the entry into force of the Act.

(3) If a marriage has been concluded before the entry into force of the Act and at least one of the spouses is habitually resident in Finland at the entry into force of the Act, the law applicable to matrimonial property matters shall remain unchanged, regardless of the entry into force, for the following calendar year, unless the spouses agree to designate the law applicable to matrimonial property matters as provided in section 130. The spouses referred to here may agree also on the applicability of the law of the state that was to govern the matrimonial property matters at the entry into force of the Act.

(4) The provision under (3) applies also where neither spouse is habitually resident in Finland, if the marriage has been concluded before the entry into force of the Act and the matrimonial property matters were according to the provisions in force before the entry into force governed by the law of Finland.

(5) A marriage concluded before the entry into force of the Act and valid according to the provisions in force before the entry into force shall be valid notwithstanding the Act. A marriage that had been found invalid by the judgment of a court before the entry into force of the Act shall not gain validity by virtue of the entry into force.