

DANISH LEGISLATION

ACT N° 256 OF 4 JUNE 1969

**ACT ON THE CONTRACTION AND DISSOLUTION OF
MARRIAGE**

PART 1 Conditions of marriage

1. Persons under the age of 18 shall not be entitled to contract marriage without the permission of the appropriate government office.

PART 4 Judicial separation

§ 29

A spouse who finds it intolerable to continue cohabiting with the other spouse shall be entitled to a judicial separation.

§ 30

The effects of judicial separation shall cease if the spouses resume cohabitation or if they continue cohabiting.

Divorce following judicial separation

§ 31

(1) Either spouse shall be entitled to a divorce after 12 months' judicial separation.

(2) The spouses shall be entitled to a divorce after six months' judicial separation if they are agreed on a divorce.

Living apart for two years

§ 32

Either spouse shall be entitled to a divorce if the spouses have lived apart for the past two years due to incompatibility.

Adultery

§ 33

(1) A spouse shall be entitled to a divorce when the other spouse has committed adultery or had a similar sexual relationship. However, a spouse cannot claim divorce if he condoned the other spouse's behaviour or must be considered to have waived his right at a later date.

(2) A divorce cannot be obtained on the basis of a sexual relationship which existed after the spouses had obtained a judicial separation.

(3) A petition for an administrative divorce decree shall be presented or legal proceedings instituted within six months after the spouse became aware of the act of adultery, and within two years after it was committed.

Violence

§ 34

(1) A spouse shall be entitled to a divorce when the other spouse has committed deliberate acts of violence of a serious nature against her/him or the children.

(2) A petition for an administrative divorce decree shall be presented or legal proceedings instituted within twelve months after the spouse became aware of the act of violence, and within three years after it was committed.

Bigamy

§ 35

A spouse shall be entitled to a divorce when the other spouse has contracted a new marriage in contravention of the provisions of section 9 above.

§ 36- § 41

(Repealed)

Procedure for obtaining judicial separation or divorce

§ 42

- (1) A judicial separation and a divorce shall be granted by the judgment of a court or administratively.
- (2) An administrative decree can only be granted where the spouses agree on petitioning for a judicial separation or divorce according to this procedure, and are agreed about the terms mentioned in sections 49 and 54-56, cf. Section 45, however. The issue regarding the amount of maintenance payable may be referred to the appropriate government office for a decision.
- (3) In the event that the government office considers it inadvisable to grant an administrative decree, the petition shall be refused.

§ 42 a

- (1) The administrative decree shall be prepared by the Minister of Justice or by the government office on the authority of the Minister of Justice.
- (2) In filing a petition for an administrative divorce decree, a fee of DKK 500 shall be paid to the government office.
- (3) However, if the petitioner has filed a petition for divorce within the past three months, and a fee has been paid, no further payment shall be made.

Reconciliation procedure

§ 43

- (1) At the request of both parties, an attempt at reconciliation may be made by a clergyman. The rules on this procedure shall be laid down by the Minister of Ecclesiastical Affairs, upon consultation with the Minister of Justice.
- (2) The Minister of Justice may lay down rules on voluntary marriage counselling before a judicial separation or divorce is granted.

Negotiation of the terms on judicial separation or divorce

§ 44

(1) Before a decree of judicial separation or divorce is granted administratively, the terms shall be negotiated. However, if a divorce is petitioned for under the provisions of section 31 and the terms of the judicial separation shall continue to apply after a divorce, no negotiation of the terms shall be necessary.

(2) The rules on the negotiation of terms shall be laid down by the Minister of Justice. These rules may determine that a spouse who does not reside in this country shall not be required to appear in person before the appropriate government office for the purpose of negotiating the terms of a judicial separation or divorce.

PART 5 Terms of judicial separation and divorce and alteration of the terms, etc.

§ 45

The terms laid down in a judgment on judicial separation which has been pronounced in this country shall also be applicable to the period after a divorce, where the divorce has been obtained on the basis of the judicial separation. However, a judgment on judicial separation may direct otherwise with respect to maintenance obligations.

§ 47

(Repealed)

Alteration of agreement or decision on custody

§ 48

(Repealed)

Maintenance

§ 49

In connection with a judicial separation or divorce, a decision shall be made as to whether one spouse shall be obliged to contribute to the maintenance of the other spouse.

§ 50

(1) In the event that the spouses do not reach an agreement on this issue, the court shall make a decision on the maintenance obligation, including on the period for which such maintenance shall be payable, while the government office shall fix the amount of maintenance payable. Unless very special circumstances prevail, the court may only order a spouse to contribute to the maintenance of the other spouse for a limited period, not exceeding ten years.

(2) In making decisions in pursuance of subsection (1) above, it shall be considered to what extent the party requesting maintenance can provide sufficiently for himself, in view of his way of life, and whether the other party, in view of his financial situation and other circumstances, is capable of paying such maintenance. Moreover, the duration of the marriage shall be considered. Further, it may be considered whether the party requesting maintenance needs support for an education or the like.

§ 51

The maintenance obligation shall cease when the recipient contracts a new marriage, or one of the spouses dies.

Alteration of agreement or decision on maintenance

§ 52

An agreement made by the spouses on the maintenance obligation or on the amount of maintenance payable may be altered by the judgment of a court, where, due to materially altered circumstances, it would be unreasonable to uphold the agreement.

§ 53

(1) A decision on a spouse's maintenance obligation made by the judgment of a court may be altered by a new judgment, where warranted by materially altered circumstances and special reasons.

(2) A decision made by the government office on the amount of maintenance payable may be altered by the government office, where warranted by special circumstances.

Other terms

§ 54

A spouse's pension entitlement after a divorce shall be subject to the special statutory provisions laid down in this respect.

§ 55

(1) A spouse's right to take over the lease of a joint flat shall be subject to the provisions of Danish rent legislation in this respect.

(2) In the event that a flat in a building complex has hitherto served as accommodation for the family, and such complex contains several flats and belongs to one spouse's share of the community property or to his separate property, the court may, in connection with pronouncing a judgment on judicial separation or divorce, order the said spouse to let the flat to the other spouse and stipulate the terms of the lease.

§ 56

Where one spouse has separate property, it may be decided in the judgment on judicial separation or divorce, upon a claim being made in this respect by the other spouse, that the first spouse shall contribute an amount to the other spouse in order to ensure that said spouse is not placed in an unreasonably disadvantageous financial position after the judicial separation or divorce. Such decision shall only be made where specially warranted by the spouse's property ownership relations, the duration of the marriage or other relevant circumstances. This provision shall also be applicable to unassignable rights of a personal nature which are not included in the community property to be divided.

§ 57

(Repealed)

Alteration of certain agreements on terms, etc.

§ 58

Grounds for Divorce and Maintenance Between Former Spouses

Where, with a view to judicial separation or divorce, the spouses have entered into an agreement on the division of their property, maintenance obligations or other terms, such agreement may be altered or declared null and void by the judgment of a court, in the event that the agreement is considered to have been unfair for one of the spouses at the time when it was concluded.