

## **NATIONAL LEGISLATION: DENMARK**

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## 1. THE ACT ON NAMES

### **The family names of spouses and cohabitants**

**§ 5.** If spouses want the same family name, one of the spouses may, with the consent of the other spouse, take the other's family name, unless the name is taken pursuant to Section 7, subsection 1(1) or (2).

**Subsection 2.** The same applies to persons who are not married but who live in a marriage-like relationship and who have either lived together for two years or who have a child together who is under the age of 18 and who has or will have the same family name.

## 2. THE INHERITANCE ACT

### **Extended cohabitants' wills**

**§ 87.** Two persons can make wills by which they inherit from each other, wholly or partly, as if they were spouses.

**Subsection 2.** In a will, as referred to in subsection 1, it cannot be provided that the provisions of the Act on community property, including the rules on undivided possession of the estate, shall apply.

**Subsection 3.** A will made pursuant to subsection 1 does not mean that Section 10 applies.

**§ 88.** A will made pursuant to Section 87 is only valid if, at the time it is made, the parties:

- (1) fulfil the conditions for entering into and dissolving marriage in Sections 6, 9 and 10 of the Marriage and Matrimonial Causes Act; and
- (2) they have not previously made a will pursuant to Section 87 whereby some other cohabitant has inheritance rights.

**Subsection 2.** A will made pursuant to Section 87 is only valid if, at the time of the first death of a cohabitant, the parties lived together in a joint residence, and:

- (1) expected, had or have had a child together, or
- (2) had lived together in a joint residence in a marriage-like relationship for the preceding two years.

**Subsection 3.** Joint residence is not regarded as having been terminated by a temporary stay in another dwelling or in an institution.

**§ 89.** Testamentary dispositions pursuant to Section 87 will lapse if the parties enter into a marriage with each other or if one of the parties enters into a marriage with a third party.

### 3. THE ADMINISTRATION OF ESTATES ACT

**§ 111 a.** A surviving cohabitant has a right to take over the former joint residence and usual household goods upon making a cash payment of the probate valuation to the deceased's estate if at the date of death:

- (1) the cohabitants lived together in a joint residence in a marriage-like relationship, and had done so for the two years preceding the death, or
- (2) the cohabitants lived together in a joint residence and had, had had or expected a child together.

**Subsection 2.** Joint residence is not regarded as having been terminated by a temporary stay in another dwelling or in an institution.

**Subsection 3.** If a surviving cohabitant inherits under a will, the right referred to in subsection 1 is regarded as a right to take over the property referred to at probate valuation as part of their inheritance, paying any excess amount due to the estate.

**Subsection 4.** If a cohabitant and an heir wish to take possession of the same asset, the cohabitant has a prior right. However, a child of the first deceased cohabitant is entitled to possession of the asset if it has special sentimental value for them.

**Subsection 5.** Subsections 1-4 do not apply to assets which the testator has disposed of in their will.

### 4. THE INSURANCE CONTRACTS ACT

**§ 105 a.** Unless otherwise indicated by the circumstances, the next-of-kin are regarded as the policy holder's spouse, a cohabitant who fulfils the conditions in subsection 2, their children or heirs in the named order.

**Subsection 2.** In order to be covered by subsection 1 a cohabitant must live together with the policy holder in a joint residence and:

- (1) have, have had or expect a child together with the policy holder, or
- (2) have lived with the policy holder in a marriage-like relationship in a joint dwelling for the last two years prior to the policy holder's death.

**Subsection 3.** Joint residence, as referred to in subsection 2, is not regarded as having been terminated by a temporary stay in another dwelling or in an institution.

### 5. THE INHERITANCE TAX ACT

**The taxable area and the level of charges**

**§ 1.** Under this Act, inheritance tax of 15 % is payable to the State on the value of the assets left by a deceased person.

**Subsection 2.** Supplementary inheritance tax of 25 % is payable on the value of assets that are inherited by those other than:

- (a) the deceased's children, stepchildren and their children,
- (b) the deceased's parents,
- (c) the deceased's children's or stepchildren's non-separated spouse, regardless of whether the children or stepchildren are alive or dead,
- (d) persons who have shared a joint residence with the deceased for the two years preceding the death, and persons who have previously shared a joint residence with the deceased for at least two years, if the joint residence came to an end solely because the deceased was placed in an institution such as an old people's home, or a person who, at the date of the death lived together with the deceased in a joint residence and had, had had or expected a child together with the deceased including where the joint residence came to an end solely because the deceased was placed in an institution such as an old people's home.

## 6. THE LIABILITY AND COMPENSATION ACT

### **Loss of provider etc.**

**§ 12.** Any person who is liable for another person's death must pay for reasonable funeral expenses and compensation to any person who has lost a provider as a result of the death. This provision also includes the value, as a provider, of the deceased's work in the home.

### **Compensation to spouse or cohabitant**

#### **§ 13.**

(1) The compensation to a spouse or a cohabitant for the loss of a provider shall be 30 % of the compensation to which the deceased may be assumed to have been entitled in the event of a complete loss of earning capacity; see Sections 5-8. In the absence of special circumstances, such compensation shall be at least DKK 644,000.

(2) Where the provider had reached the age of 30, the compensation will be reduced in accordance with the provisions of Section 9.

## 7. CONSOLIDATING ACT ON RENT (*LEJELOVEN*)

### **§ 75.**

(1) On the death of a tenant, the surviving spouse is entitled to continue the tenancy.

(2) Where a tenant dies without leaving a spouse, any person with whom the deceased tenant had cohabited for a period of not less than 2 years preceding the death may continue the tenancy.

**§ 77.** Where a tenant has been granted a separation or divorce or where their marriage has been annulled, the order granting separation or divorce or the decree of annulment shall specify, if necessary, which of the spouses shall be entitled to continue the tenancy. A spouse whose business is connected with the rented premises shall enjoy prior rights in respect of such premises and any connected dwelling.

**§ 77a.** Where a couple who have cohabited for at least 2 years separates, they may agree which of them will be entitled to continue the tenancy of their joint home. In the absence of such agreement, cf. the first sentence hereof, a court may decide which of the parties should be entitled to continue the tenancy, having regard for any special circumstances including the welfare of any minor children. Section 77, second sentence, shall apply correspondingly.

**§ 79.** A tenant shall not waive their rights under Sections 69-70, 72-73 and 75-78.