

## **NATIONAL LEGISLATION: FINLAND**

1. Act on the Dissolution of the Household of Cohabiting Partners 2

NB: Unofficial translation, Legally binding only in Finnish and Swedish

## 1. ACT ON THE DISSOLUTION OF THE HOUSEHOLD OF COHABITING PARTNERS

( 26/2011)

Adopted in Helsinki on 14 January 2011

In accordance with the decision of Parliament, the following is enacted:

### **Chapter 1**

#### **General provisions**

##### **Section 1**

###### **Scope**

This Act applies to the dissolution of the household of cohabiting partners when the partnership ends.

##### **Section 2**

###### **Non-mandatory nature of provisions**

Derogation from the provisions of this Act is allowed by agreement. However, the cohabiting partner or the heir of a deceased cohabiting partner may not validly waive his or her right to demand the separation of property referred to in Section 4 or his or her right to apply for an estate distributor to be appointed as referred to in Section 7, Subsection 2.

##### **Section 3**

###### **Definitions of cohabiting partner and cohabiting partnership**

In the context of this Act, cohabiting partner refers to partners who live in a relationship (cohabiting partnership) in a shared household and who have lived in a shared household for at least five years or who have, or have had, a joint child or joint parental responsibility for a child. However, a person who is married shall not be deemed a cohabiting partner.

### **Chapter 2**

#### **Separation of property**

##### **Section 4**

###### **Separation of property**

If a cohabiting partner or the heir of a deceased cohabiting partner so demands, a separation of the cohabiting partners' property shall be carried out when the cohabiting partnership ends.

## **Section 5**

### **Property of cohabiting partners**

When the property is separated, each cohabiting partner shall keep his or her own property. If the cohabiting partners have joint property, co-ownership must be dissolved on demand.

## **Section 6**

### **Presumed co-ownership**

If, when separating the property, the agreement between the cohabiting partners or the circumstances otherwise do not indicate and it cannot be proved which cohabiting partner a moveable object belongs to or that it is joint property, the partners are deemed as having acquired it jointly with equal rights.

## **Section 7**

### **Carrying out separation of property**

Separation of property can be agreed by making a separation deed of the property as provided by the Code of Inheritance (40/1965), Chapter 23, Section 9.

The cohabiting partner or the heir of a deceased cohabiting partner can also apply to the district court to appoint an estate distributor to separate the property. An estate distributor is appointed and he or she separates the estate in accordance with the provisions governing the distribution of inheritance.

## **Chapter 3**

### **Compensation for contributions for the benefit of a shared household**

## **Section 8**

### **Compensation criteria**

A cohabiting partner is entitled to compensation if, through contributions for the benefit of the shared household, he or she has assisted the other cohabiting partner in accumulating or retaining his or her property so that dissolution of the household, solely on the basis of ownership, would result in unjust enrichment at the expense of the other.

Contributions for the benefit of a shared household are deemed as being:

- 1) work done by one cohabiting partner for the benefit of the shared household or property owned by the other;
- 2) use of funds for the shared household;
- 3) investment of funds by one cohabiting partner in property owned by the other; or

4) any other similar contribution.

No right to compensation exists, if the unjust enrichment arising from a contribution for the benefit of a shared household can, given the circumstances, be deemed as insignificant.

## **Section 9**

### **Claiming compensation**

Compensation can be agreed upon or a claim for compensation can be made to the estate distributor appointed to separate the property. Unless application has been made to appoint an estate distributor, claim for compensation can be submitted by filing an action in the district court.

The right to compensation lapses if compensation was not claimed when the property was separated or an action for compensation brought within six months of the separation of the property.

If separation of the property has not been carried out, the right to compensation nevertheless lapses unless a claim for compensation has been brought or unless an application to appoint an estate distributor has been made within three years of the death of the cohabiting partner or within three years of the partners having moved permanently apart.

## **Chapter 4**

### **Certain provisions and entry into force**

## **Section 10**

### **Appealing the decision made by the estate distributor**

A cohabiting partner or the heirs of a deceased cohabiting partner may dispute the separation of the property carried out by the estate distributor and the decision made by the estate distributor as a result of the claim for compensation as provided by the Code of Inheritance (40/1965), Chapter 23, Section 10.

## **Section 11**

### **Recovery**

If, when separating the property or paying the compensation referred to in Section 8, a cohabiting partner has given his or her cohabiting partner or the heirs thereof considerably more of his or her property than he or she would have been liable to give, separation of the property or compensation can be recovered to a bankruptcy estate as provided by the Act on the Recovery of Assets to a Bankruptcy Estate (758/1991).

In order for the cohabiting partner or the heirs of a cohabiting partner who have obtained property in the manner referred to in Paragraph 1 can

obtain protection against the claims of recovery lodged by the creditors of the other cohabiting partner in bankruptcy and enforcement, the property separation deed or the agreement or some other document concerning compensation must be submitted to the local register office for registration as provided by the Act on Certain Personal Registers at Local Register Offices (57/2005).

## **Section 12**

### **Entry into force and transitional provision**

This Act enters into force on 1 April 2011.

This Act shall not apply to cohabiting partnerships that have ended before the Act enters into force.

Measures necessary for the implementation of this Act may be taken before the Act enters into force.