

**Community of property of spouses**  
**§ 143**

Anything which can be object of ownership and was acquired by one of the spouses in the course of marriage shall constitute community property with the exception of things inherited or received as gift as well as things which, due to their nature, serve personal needs or the exercise of a profession of one spouse as well as things surrendered under the legislation on restitution of property to one spouse who owned the surrendered thing before the conclusion of marriage or to whom the thing was surrender as legal successor of the original owner.

**§ 143a**

(1) Spouses may by agreement extend or limit the statutory scope of community property. In the same manner they may agree on the administration of community property.

(2) Spouses may agree that they shall defer the creation of the community of property to the day of the dissolution of their marriage.

(3) An agreement under paragraphs 1 and 2 must be in the form of a notarial record. The spouses can invoke such an agreement vis a vis of a third party only if that party has knowledge of that agreement.

**§ 144**

Things in community property shall be utilised by both spouses jointly; they shall jointly cover the expenses invested in things or connected with their use and maintenance.

**§ 145**

(1) Ordinary matters relating to community assets may be attended to by either spouse. In all other things the agreement of spouses is necessary; otherwise the transaction is voidable.

(2) Transactions relating to community assets create rights and liability to both spouses jointly and severally.

**§ 146**

(1) In case of a dispute between the spouses regarding their rights and obligations arising from the community of property, the court shall decide upon an application of one of them.

(2) If further coexistence has become unbearable due to the physical or psychological violence or threat of such violence in respect of a spouse or next of kin living in the same house or apartment, the court may on application by one spouse limit the other spouse in his/her right to use the house or apartment in community property or, if appropriate terminate his right to use it.

**§ 147**

(1) Claim of the creditor of one of the spouse which was incurred in the course of marriage may be satisfied in the procedure of enforcement of a decision also from the assets in community property of spouses.

(2) This does not apply if the creditor has a claim against one of the spouses who concluded an agreement under § 143a as long as the claim was incurred from utilisation of assets which are not in the community property of spouses.

**§ 148**

- (1) Dissolution of marriage results in dissolution of the community of property of spouses.
- (2) On serious grounds, in particular if the further continuation of the community of property would contradict the good morals, the court may on application of one spouse dissolve the community of property even during the marriage.

#### **§ 148a**

- (1) The utilisation of the assets in community property of spouses by an entrepreneur requires the consent of the other spouse at the launch of the entrepreneurial activity. Subsequent transactions relating to this enterprise do not require consent of the other spouse any longer.
- (2) The court shall dissolve the community of property of spouses upon application in case that one of the spouses obtained a license to business activities. The application may be submitted by the spouse who did not obtain the license. In case both spouses obtain the license, the application may be submitted by either of them.
- (3) If the entrepreneur carries out the entrepreneurial activity after the dissolution of the community of property jointly with the other spouse who is not an entrepreneur, or with his/her help, the profit from the enterprise shall be divided between them in accordance with a written contract; failing such contract, the profit shall be divided in equal shares.

#### **§ 149**

- (1) Once the community of property is dissolved, the division shall be carried out in accordance with the principle contained in § 150.
- (2) If the division comes about by agreement of spouses, they have a mutual duty to produce reciprocally, upon request, a written acknowledgement of the arrangements reached.
- (3) Failing an agreement on division, the court shall divide the community property on application by one of the spouses.
- (4) If neither an agreement on the division of the community property was concluded within 3 years from its dissolution nor a court issued a decision upon application of one of the spouses filed within 3 years from the dissolution, it shall be presumed that, as regards movables, the spouses divided the property according to the status in which either of them uses exclusively as an owner for himself/herself, his/her family and household. As regards all the other movables and the immovable property it is presumed that they are co-owned by the spouses in equal shares. The same applies, as appropriate, to all the other shared rights in property.

#### **§ 149a**

If the agreements between spouses under § 143 and § 149 relate to immovable property they must be in writing and become effective by registration in the land registry.

#### **§ 150**

Upon division it is presumed that the shares of both spouses are equal. Each spouse has the right to claim compensation for personal assets invested in community property and has the obligation to compensate for the community property invested in his personal assets. Further, account shall be taken in particular of the needs of minor children, to the manner each spouse attended to the family and how he/she was involved in the acquisition and maintenance of common things. In determining the level of involvement the care of children and maintenance of common household shall be given due weight.

#### **§ 151**

If the community of property was dissolved in course of the marriage, it can be reinstated solely by a decision of the court upon application of one of the spouses.