

MARRIAGE AND DIVORCE IN DENMARK

= information on the significance of
the judicial validity of a marriage.



= **THE RIGHT**
= **TO EQUALITY**

ENGLISH



Dear reader

The following information concerns the legal aspects of marriage and divorce in Denmark. More precisely, it informs women and men of their rights in marriage and divorce, as well as the difference between “a marriage with civil validity” and “a marriage without civil validity.”

The material is produced by Als Research and the Danish Refugee Council for the Danish Agency for International Recruitment and Integration.

Happy reading!



MARRIAGE IN DENMARK

In Denmark, men and women hold equal rights in marriage and in divorce. Regardless of gender, it is a civil right in Denmark to decide whom to marry and when to marry as long as the individual complies with the Danish Act on the Formation and Dissolution of Marriage (“ægteskabsloven”, henceforth: Marriage Act).

Not all couples decide to enter into marriage. Most couples cohabit before they decide to marry, while others choose never to marry. Some get married, divorced, and remarry someone else.

MARRIAGE AND VALIDITY

If one is to enjoy the rights and duties as a married couple in Denmark, the marriage must hold civil validity as per Danish law. A marriage entered into in Denmark is only judicially valid if it is conducted by an authority such as an imam, a mayor, or any other authority, that holds certification to officiate a marriage.

If a religious marriage is performed by a religious authority not authorized to officiate a marriage in Denmark, the marriage will not have judicial validity. If doubts or questions arise, you may ask your local religious community if they have an imam or a priest or similar with such authorization.

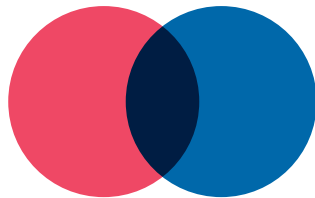
When entering into marriage, both parties must enter the marriage of free will. It is a requirement, that both parties are present at the marriage ceremony, and both parties must be at least 18 years of age when married. It is also a requirement that both parties are unmar-

ried at the time of entering the marriage, and they may not be close relatives. If one of the parties is already married or in a civil partnership, that marriage or civil partnership must be dissolved before entering a new marriage. Polygamy is not permissible in Denmark. Marrying a second person without dissolving a previous marriage or civil partnership is a criminal offence and can result in the nullification of the second marriage.

For a marriage to be judicially valid in Denmark, the following conditions must be met:

- › *The marriage must be conducted by an authority that holds certification to officiate marriage with civil validity.*
- › *Both parties must be at least 18 years of age.*
- › *Both parties must be present at the marriage ceremony.*
- › *Both parties must be unmarried when entering into the new marriage.*
- › *Both parties must consent to marrying one another at the marriage ceremony.*
- › *The marriage authority must pronounce the marriage of the couple.*
- › *The marriage must not be one of convenience.*

Before you can get married in Denmark, you must have a certificate of marital status. This certificate of marital status is documentation that you meet the conditions in the Marriage Act. You must apply for a certificate of marital status at your local municipality office. If you or your spouse are citizens of a country other than Denmark and do not have permanent residence in Denmark or do not have the right of permanent residence in Denmark as per EU regulations, you must apply for a certificate of marital status at the Agency of Family Law.



FORCED MARRIAGE

A marriage may be overturned if either party was induced to marry under force or duress. In Denmark, forcing a religious or a civil marriage upon another party is a criminal offence and may lead to imprisonment.

If you feel that you are being forced into a marriage against your will, you can seek help at your municipal authorities or at the following hotline: +45 70 20 30 82. The hotline is open 24 hours a day and counsels women, men and the relatives of those affected. The hotline also counsels in cases of domestic violence and about the options of seeking help at a crisis centre. Read more at www.levu-denvold.dk ("A Life Without Violence").

Young women and men can also get in touch with RED Counseling Centre at +45 70 27 76 77. RED Counseling Centre provides counseling about honour-related conflicts. The centre also provides counseling for parents at +45 70 27 03 66. Read more at: www.red-center.dk/english/

THE SIGNIFICANCE OF THE CIVIL VALIDITY OF A MARRIAGE

When a marriage holds civil validity, one has certain rights and duties according to the law. Listed below are some of the crucial rights and duties in a marriage:

RECOGNITION OF FOREIGN MARRIAGES IN DENMARK

Danish law recognizes a marriage entered abroad if it complies with the formalities of the country in which the marriage was entered. There are, however, exceptions to the rule. Among these are, for instance, if both parties were not present at the marriage ceremony or if one of the parties was under the age of 18, when entering into the marriage.

Recognition of a foreign marriage in Denmark implies that the parties are regarded as a married couple according to Danish law with the rights that this entails. Questions concerning the recognition of a foreign marriage usually arise when the validity of a foreign marriage in terms of Danish law has bearing on a case, for instance of divorce.

In some cases, the registration of a marriage with the national registration office ("Folkeregisteret") is sufficient documentation of the recognition of a foreign marriage. In other cases, the recognition of a marriage may require further documentation. To find out whether your foreign marriage is registered in Denmark, please visit www.borger.dk and proceed to the "Mine data" tab. In order to have your foreign marriage registered in Denmark, contact the national registration office ("Folkeregisteret") at your local municipality.



JOINT CHILD CUSTODY

A married couple is automatically granted joint legal custody of their children upon childbirth. This implies that both parents hold joint responsibility for their children, that decision-making is equally divided among both parents, and that crucial decisions on their children's behalf are to be made together.

THE RIGHT TO SPOUSAL MAINTENANCE

As a married couple, both parties are obliged to provide financially for one another as per the 2018 Act on Financial Relationship between Spouses ("lov om ægtefællers økonomiske forhold"). The financial support one receives from one's spouse is not taxed. In addition, specific laws apply regarding co-taxation for married couples.

INHERITANCE RIGHTS

If a married couple with no children has not drawn up a will that states otherwise, the spouse will automatically inherit everything in the case of the other spouse's death and will be exempt from paying an inheritance tax of 15%. In the case of a married couple with children, the longest living spouse will receive 50% of the inheritance, while the other 50% will go to the child/children.

MUTUAL PROPERTY

A married couple is automatically granted a mutual property regime. This does not mean that the couple owns everything together in their marriage, but it implies that the couple must divide their property and assets equally in the case of a divorce. The couple may also decide to make a prenuptial or postnuptial agreement that stipulates separate property. The property or assets covered by such agreements are not divided when the marriage ends.



RELIGIOUS MARRIAGES WITHOUT CIVIL VALIDITY

If your religious marriage was conducted by a religious authority who is not authorized to officiate a marriage in Denmark, your marriage holds no civil validity as per Danish law. Some women face serious challenges and conflicts when they wish to get out of a religious marriage that holds no civil validity.

In Denmark, different ethnic minority communities follow very different practices when it comes to “religious divorces”. Some women, for instance, experience difficulties in having their divorce recognized by their spouse, family and/or wider network because the religious marriage contract often does not grant women equal opportunity for divorce.

In Danish law, there are no stipulated guidelines for a religious divorce. As a result, it may be difficult to know what to do, and where to go, if you seek a religious divorce. It is therefore important to understand that a religious marriage holds no civil validity and therefore has no bearing on one’s legal rights within Danish law. If the

marriage holds no civil validity, one’s legal status will be that of unmarried, and one is thus free to remarry, should one desire to do so, regardless of the opinion of one’s ex-spouse, family and/or wider network.

In some communities, a religious marriage is automatically considered dissolved, if the civil marriage is dissolved by a divorce granted by The Agency of Family Law (“Familiereetshuset”). When entering a religious marriage, it may be beneficial to have the religious marriage contract stipulate equal rights of divorce for both spouses. This may also be written into the religious marriage contract, after the marriage has been entered into.

It is, however, important to ensure that a marriage also has civil validity according to Danish law, in order to ensure one’s rights in the case of a divorce.

If you are considering entering a religious marriage, or if you have already entered one and would like to be informed of your rights, you may contact the anonymous hotline provided by RED Counseling Centre at + 45 70 27 76 66. This service is available 24 hours a day and 7 days a week. RED Counseling Centre can also help you if you need a safe place to stay, because you are attempting to get out of a religious marriage.



SEPARATION AND DIVORCE

In Denmark, it is up to the individual to decide whether to divorce - and it is not required to state any particular grounds for divorce. Both men and women have the right to divorce, regardless of whether the spouse also wishes to pursue a divorce or not. Men and women hold equal legal rights in relation to a divorce. This means that both spouses have the same access to divorce, and that the rules are the same for women and men.

When filing for a divorce or a separation, this must be applied for through the Agency of Family Law ("Familiaretshuset"). Your local library or your municipality's office can help you, should you need assistance in gaining access to the procedure online.

UNCONTESTED DIVORCE

If both spouses agree to the divorce, they can obtain an immediate divorce, without a period of judicial separation. However, if the couple have children below the age of 18, the following conditions still apply for an immediate divorce:

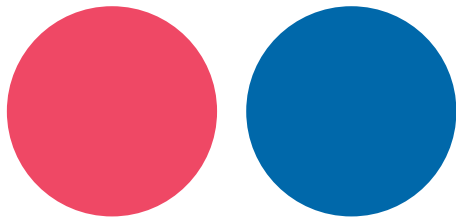
- › *the spouses go through a reflection period of three months*
- › *the spouses complete a digital procedure ("Cooperation after Divorce").*
- › *the application for divorce is confirmed within 4 months of filing it*

The purpose of the reflection period is to ensure that the couple - as parents - reflect upon their decision to divorce, as well as on how to best ensure their children's well-being and continue to cooperate as parents.

CONTESTED DIVORCE

If only one spouse wishes to divorce, the couple must go through a separation period of six months. During this period, the spouses must not live together, and they will no longer inherit one another. It is not permissible for either spouses to remarry during this period. After the separation period, a divorce can be finalized, even if one spouse disagrees. One must file for divorce, as a divorce is not automatically granted at the end of a separation period.





APPLYING FOR A DIVORCE WITH IMMEDIATE EFFECT

In some instances, spouses may request an immediate divorce without prior separation for six months and without the requirement of a reflection period.

In these instances, one or more of the following conditions must be present:

- › *A spouse has committed adultery*
- › *There have been acts of violence in the marriage*
- › *A spouse has illegally taken a mutual child or mutual children to a foreign country*
- › *A spouse is married to someone else (bigamy)*
- › *The spouses have been living apart for at least two years due to disagreements and disputes*

DIVORCE IN INTERNATIONAL/FOREIGN MARRIAGES

If you were married abroad, you are able to file for a divorce in Denmark if the marriage is recognizable according to Danish law. This implies that the marriage must be valid and comply with the formalities of the country in which the marriage took place, and that the necessary documentation for the marriage can be provided.

If you have questions regarding separation and divorce, you may call the Agency of Family Law at +45 72 56 70 00. You may also find more information at familieretshuset.dk. On this website, you may also submit an application for divorce.

A DIVORCE MAY IMPACT YOUR RESIDENCE PERMIT, IF YOU HAVE BEEN FAMILY REUNIFIED WITH YOUR SPOUSE

If you were granted a residence permit in Denmark on the grounds of family reunification with a spouse or a partner, once you divorce, your residence permit will normally be revoked.

However, there are special possibilities for keeping a residence permit if personal circumstances indicate that the revoking the permit will be particularly damaging. This may be the case if you, for instance, have children that reside in Denmark.

There are also special possibilities for keeping a residence permit, if you have been subject to violence from your spouse. In such a case, the violence must be physical or psychological and must be documented. Furthermore, you must be able to demonstrate, that the divorce was a result of the violence.

There is, however, no guarantee that a residence permit may be retained upon divorce, even if the family reunified spouse has children that reside in Denmark, and even if it can be documented, that there have been acts of violence in the marriage, and that the violence was a direct reason for the divorce.

If you need counselling about your rights in relation to staying in Denmark after a divorce, please call the legal advisory body of "Lev uden Vold" (A Life without Violence") at +45 31 18 44 41.

CHILDREN AND DIVORCE

When a married couple divorce, both parents continue to have joint custody over their mutual children. Despite being unmarried, the parents must still cooperate in relation to their children and both parents must agree on vital decisions about their children.

RESIDENCE, CONTACT WITH CHILDREN AND CHILD SUPPORT

In the case of a divorce, the couple must decide where the child will reside and how much time the child will spend with each parent. If both parents agree to it, the child may have shared residence.

The Agency of Family Law (“Familieretshuset”) offers consultations to parents, who do not agree on issues pertaining to e.g. child custody, residence or contact with the child. There are also various initiatives to support the child.

In addition, there are various organisations that offer counselling and consultations with regards to a divorce. Such services are offered by Børns Vilkår’s anonymous telephone advice line for parents (“ForældreTelefonen”) and by Mødrehjælpen among others. You may also find information in the guide “Når I går fra hinanden” at borger.dk.

Parents have a duty to provide for their children, regardless of whether or not they live with the child. If the parents are not able to reach an agreement regarding child support for a dependent child, the parent who hosts the children may apply for child support from the other parent at the Agency of Family Law. The amount of the child support is set according to the income of the paying parent.

In addition to child support from the other parent, there are a number of public subsidies that aim to make it easier for single parents to care for their children. A single parent living with a child/children may, for instance, apply for child benefits for single parents and, depending on income, may be eligible for a subsidy for daycare institutions. You can find more information about public benefits for single parents in the guide “Når I går fra hinanden” at borger.dk.

If you cannot reach an agreement in matters concerning child custody, residence, contact or child support in the case of a divorce, please call the Agency of Family Law at: +45 7256 7000 or get more information at www.familieretshuset.dk.



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