

### 1 Is there a statutory matrimonial property regime in this Member State? What does it provide?

Yes, there is such a system. It lays down rules on the duty of maintenance that applies between the spouses during and after marriage. It also regulates the spouses' rights and duties during and after marriage in respect of the different classes of assets and liabilities, the matrimonial home and its furnishings, and gifts between spouses.

### 2 How can spouses arrange their matrimonial property regime? What are the formal requirements in this case?

The spouses can have assets of two kinds: property susceptible to division (*giftorättsgods*) and private property (*enskild egendom*). Property susceptible to division is the more usual form; property is susceptible to division where nothing else has been determined. The fundamental rule is that such property has to be divided when a spouse dies or in the event of divorce. Private property is not subject to division of this kind. Property can be private as a result of any of the following:

- A matrimonial property agreement (*äktenskapsförord*). The agreement must be in writing and must be registered with the Tax Agency (*Skatteverket*).
- The terms of a gift.
- The terms of a will.
- The designation of a beneficiary in a life assurance policy, an accident insurance policy, a sickness insurance policy, or an individual pension savings scheme.

### 3 Are there restrictions on the freedom to arrange a matrimonial property regime?

Yes, there are restrictions. For example, there are rules protecting the spouses' matrimonial home and its furnishings during the marriage. One spouse cannot sell, let or otherwise dispose of the home without the other spouse's consent. These rules apply even to property that is private under the terms of a matrimonial property agreement. If the property has to be divided between the spouses, their matrimonial home and furnishings are allocated to the spouse who has greater need of them. This is so even if the property belongs in its entirety to the other spouse. If the value of the property thus allocated to one spouse exceeds that spouse's share of the property to be divided, the spouse is nevertheless entitled to take ownership of it if he or she pays the difference to the other spouse. Another example is that a surviving spouse is entitled to a certain minimum sum of money from the property of the two spouses. This applies even if the deceased spouse's property was private and the deceased spouse has left all of his or her own property to someone else.

### 4 What are the legal effects of divorce, separation or annulment on the matrimonial property?

Swedish law provides only for divorce. The legal effect of divorce is that the property susceptible to division has to be divided. One spouse may also be entitled to maintenance, at least for a tideover period.

### 5 What are the effects of death of one of the spouses on the matrimonial property regime?

The property is distributed between the deceased's heirs and the surviving spouse. But the couple's common children and grandchildren have to wait until both spouses have died before they can receive their inheritance.

### 6 Which authority has the competence to decide in a case relating to a matrimonial property regime?

The property can be distributed by the parties themselves. If they agree, the only formal requirement is that the distribution be made in writing and signed by both sides. If they do not agree, a court can appoint an executor (*bodelningsförrättare*). Decisions taken by the executor can be challenged by a party in the courts.

### 7 What are the effects of the matrimonial property regime on legal relationships between a spouse and a third party?

Each of the spouses is liable for his or her own debts. A creditor of one spouse cannot claim payment out of the other spouse's property, whether the property is susceptible to division or is that spouse's private property. There are also rules to protect a creditor against attempts by spouses to put assets out of a creditor's reach. For example, a spouse cannot decide that his or her private property is to be included in a division of property if the intention is to evade a creditor.

### 8 A short description of the procedure for the division, including partition, distribution and liquidation, of matrimonial property in this Member State.

The general rule is that all the property susceptible to division is to be included in any division. There are several exceptions. From the property susceptible to division a spouse can take out as much as corresponds to his or her own debts. Each spouse can also take out clothes and other property that that spouse uses personally, and any personal gifts. Nor does the division cover pension entitlements to be met by employers or out of public funds, or in certain respects private pensions either. The value of what is left of the property susceptible to division is in principle to be distributed equally between the spouses. The distribution is to take account of who is the owner of the asset in question. As mentioned above, there are also special rules for the matrimonial home and its furnishings.

### 9 What is the procedure and documents or information typically required for the purpose of registration of immovable property?

Every transfer of immovable property must be registered by applying for registration of ownership with the National Land Survey (*Lantmäteriet*). Registration is usually sought by the buyer. The original documents must be submitted with the application.

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