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Registered Partnership Act

Passed 09.10.2014

Chapter 1 Procedure for entry into registered partnership contract

Division 1 Entry into registered partnership contract

§ 1. Prerequisites for entry into registered partnership contract

(1) A registered partnership contract may be entered into between two natural persons of whom at least one has residence in Estonia.

(2) Only adults of active legal capacity may enter into a registered partnership contract.

(3) An adult with restricted active legal capacity may enter into a registered partnership contract only if he or she understands sufficiently the legal consequences of registered partnership contract. If a guardian has been appointed to a person, it is presumed that the person is unable to understand the legal consequences of registered partnership contract unless otherwise provided in the ruling concerning the appointment of a guardian.

(4) A promise of entry into a registered partnership contract does not provide grounds for a claim for entry into a registered partnership contract or for compensation of damage upon failure to keep the promise. Any agreement which derogates from the provisions of the first sentence of this subsection is void.

§ 2. Circumstances precluding entry into registered partnership contract

(1) A registered partnership contract shall not be entered into between persons of whom at least one is married or has a valid registered partnership contract at the time of entry into a registered partnership contract.

(2) A registered partnership contract shall not be entered into between relatives in the ascending and descending lines.

(3) A person shall not enter into a registered partnership contract with the person's sister, brother, half-sister or half-brother.

(4) The provisions of subsections (2) and (3) of this section apply even if the family relationship between the persons has terminated as a result of adoption of one person.

(5) A registered partnership contract shall not be entered into between persons whose family relationship specified in subsections (2) and (3) of this section is based on adoption.

§ 3. Procedure for entry into registered partnership contract

(1) A registered partnership contract shall be entered into in a notarially authenticated form.

(2) A registered partnership contract shall be entered into with both being present in person at the same time. A declaration of intention to enter into a registered partnership contract shall be unconditional.

(3) A notary shall examine the prerequisites for entry into a registered partnership contract. A notary shall not perform the act if there is reason to presume that grounds for annulment or nullity of the registered partnership contract exist.

(4) The details of a registered partnership contract shall be entered in the population register pursuant to the procedure provided for in the Vital Statistics Registration Act and the selection of proprietary relationship of the parties shall be entered in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

Division 2

Invalidity of registered partnership contract

§ 4. Grounds for annulment of registered partnership contract

(1) A registered partnership contract shall be annulled if:

- 1) a requirement for residence, age of majority or active legal capacity has been violated upon entry into the registered partnership contract;
- 2) any circumstances precluding entry into a registered partnership contract provided for in subsections 2 (1)–(5) of this Act exist;
- 3) the procedure prescribed in subsection 3 (2) of this Act has been violated upon entry into the registered partnership contract;
- 4) at the time of entry into the registered partnership contract, at least one person wishing to enter into a registered partnership contract had a temporary mental disorder or was incapable to exercise his or her will for any other reason;
- 5) the registered partnership contract was entered into by fraud, threat or violence, including by concealing the state of health or other personal details of a party, where such details are relevant to entry into the registered partnership contract.

(2) Annulment of registered partnership contract cannot be claimed if a party has concealed his or her financial status.

§ 5. Grounds for refusal to annul registered partnership contract

A registered partnership contract shall not be annulled if:

- 1) the requirement for residence has been violated, but the residence of at least one registered partner is in Estonia by the time of annulment of the registered partnership contract;
- 2) the requirement for age of majority has been violated, but the registered partner approves the registered partnership contract upon becoming an adult;
- 3) the requirement for active legal capacity has been violated, but the adult registered partner whose active legal capacity was restricted at the time of entry into the registered partnership contract approves the registered partnership contract after restoration of his or her active legal capacity;
- 4) the registered partner who has entered into the registered partnership contract in a state where he or she was incapable to exercise his or her will approves the registered partnership contract after restoration of his or her capability.

§ 6. Consequences of annulment of registered partnership contract

(1) If a court judgment concerning annulment of a registered partnership contract has entered into force, the registered partnership contract is void from inception.

(2) In the case of nullity of a registered partnership contract, all transactions related to the registered partnership contract which a registered partner had not presumably made if the registered partnership contract had not been entered into are also void. Unless otherwise provided by the relations between the parties, the provisions concerning civil law partnerships apply to their proprietary relations.

(3) If a registered partnership contract is annulled because one of the registered partners concealed from the other registered partner that he or she was already married or had entered into a registered partnership contract, or influenced the registered partner to enter into the registered partnership contract by fraud, threat or violence, a court may order support for the person who was in a void registered partnership with him or her and apply the provisions of the Family Law Act concerning the provision of maintenance to a divorced spouse.

Chapter 2

Legal consequences of registered partnership contract

Division 1

General legal consequences of registered partnership contract

§ 7. Cohabitation of registered partners and their rights and obligations

(1) By entry into a registered partnership contract the parties who have entered into a registered partnership contract (hereinafter *registered partners*) are required to support and maintain each other. Registered partners

have equal rights and duties with respect to each other. They organise together their cohabitation considering the well-being of each other and they shall each accept responsibilities relating to cohabitation with regard to the other.

(2) A registered partnership registered in a foreign state is deemed to be valid in Estonia in accordance with the provisions of the Private International Law Act.

§ 8. Registered partnership contract as circumstance precluding contraction of marriage

(1) Marriage shall not be contracted by a person who has a valid registered partnership contract at the time of contraction of the marriage.

(2) Registered partners may contract marriage between themselves considering the provisions of this Act concerning termination of registered partnership contract.

§ 9. Maintenance obligation of registered partners

(1) Registered partners have reciprocal obligations to maintain their family by their work and assets.

(2) Maintenance includes the activities and proprietary contributions necessary according to the living conditions of the family for covering the expenses of shared household and for the satisfaction of the common and special needs of the family.

(3) Upon entry into a registered partnership contract, the registered partners may also agree that maintenance shall be provided by regularly paid amounts of money on the bases provided for in subsection (2) of this section even after termination of the registered partnership contract.

(4) Registered partners may agree in the registered partnership contract on the manner of providing and the amount of maintenance provided by regularly paid amounts of money when they live separately or after termination of the registered partnership contract.

(5) Registered partners may agree in the registered partnership contract that the provisions of Division 2 of Chapter 5 of the Family Law Act concerning the provision of maintenance to the divorced spouse apply to the maintenance obligation after termination of cohabitation.

§ 10. Registered partner in order of persons required to provide maintenance

(1) A registered partner shall provide maintenance to the registered partner who needs assistance before his or her relatives. If the registered partner is, considering his or her other obligations and financial situation, unable to provide maintenance to the registered partner without damage to his or her own usual maintenance, maintenance shall be provided by the persons who are obliged to do it next.

(2) Subsection (1) of this section also applies to the maintenance obligations of the registered partners on which they have agreed on in accordance with § 9 of this Act.

(3) The provisions of subsection 106 (2) of the Family Law Act apply to the transfer of the right of claim.

§ 11. Transactions for organisation of cohabitation

(1) A solidary obligation of the registered partners arises from a transaction made by one registered partner in the interests of organisation of cohabitation or in order to satisfy other common needs of the family if the amount of the transaction does not exceed the reasonable rate according to the living conditions of the registered partners.

(2) The registered partners are solidary obligees with respect to the obligated party of the transaction specified in subsection (1) of this section.

(3) The registered partners shall not, by agreement with each other, derogate, to the detriment of the obligee, from the provisions of subsection (1) of this section.

§ 12. Liability for obligation assumed by other registered partner

A registered partner shall be liable for the performance of the obligation assumed by the other registered partner in so far as the registered partner may represent the other registered partner or obligate the other registered partner by his or her acts.

§ 13. Scope of diligence obligation

Upon the performance of the obligations arising from a registered partnership contract the registered partners shall exercise such care with respect to each other as they would exercise in their own affairs.

§ 14. Housing of family

A dwelling where the members of a family reside regularly is deemed to be the housing of the family.

§ 15. Registered partner's right of access and right to adopt

(1) A registered partner who is not a parent of the other registered partner's child has the right of access to the other registered partner's child on the basis of subsection 143 (4) of the Family Law Act.

(2) During the period of validity of a registered partnership contract, a registered partner may only adopt the other registered partner's child pursuant to the procedure provided for in Chapter 11 of Part 2 of the Family Law Act.

(3) A registered partner may adopt a child if:

- 1) the other registered partner is a biological parent of the child; or
- 2) the other registered partner was a parent of the child before entry into the registered partnership contract.

(4) A registered partner may, during the period of validity of the registered partnership contract, adopt a child of a third person or a child whose parent was not the other registered partner before entry into the registered partnership contract if the restrictions provided for in subsections (2) and (3) of this section would be extremely unfair to the registered partners.

Division 2 Proprietary relations of registered partners

§ 16. Selection of proprietary relationship of registered partners

(1) Upon entry into a registered partnership contract the registered partners shall, by agreement, select a proprietary relationship from among the types of proprietary relations provided in Division 2 of Chapter 4 of Part 1 of the Family Law Act pursuant to the procedure prescribed in the Vital Statistics Registration Act. The provisions concerning the types of proprietary relations apply without taking account of any references to the general legal consequences of marriage provided for in Chapter 3 of Part 1 of the Family Law Act.

(2) The registered partners may, by agreement, derogate from the proprietary relationship by the registered partnership contract taking account of the provisions of Division 3 of Chapter 4 of the Family Law Act concerning marital property contract.

(3) Upon entry into a registered partnership contract the selection of proprietary relationship shall be entered in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

Chapter 3 Termination of registered partnership contract

Division 1 Procedure for termination of registered partnership contract

§ 17. Grounds for termination of registered partnership contract

A registered partnership contract terminates upon death of a registered partner, contraction of marriage between the registered partners or termination of the registered partnership contract.

§ 18. Making of registry entries upon contraction of marriage between registered partners

If a registered partnership contract terminates due to contraction of marriage between the registered partners, entries relating to the termination of registered partnership contract shall be made upon contraction of marriage in the population register pursuant to the procedure provided for in the Vital Statistics Registration Act and in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

§ 19. Termination of registered partnership contract by agreement

(1) A registered partnership contract shall be terminated on the basis of notarially authenticated applications of the registered partners.

(2) Upon termination of a registered partnership contract, entries shall be made in the population register pursuant to the procedure provided for in the Vital Statistics Registration Act and in the proprietary relationship register pursuant to the procedure provided for in the Proprietary Relationship Register Act.

§ 20. Time of termination of registered partnership contract

The time of termination of a registered partnership contract is:

- 1) upon the death of a registered partner, the moment of his or her death;
- 2) upon contraction of marriage between the registered partners, the moment of contraction of marriage;
- 3) upon termination of a registered partnership contract at court, the date of entry into force of the court judgment;
- 4) upon termination of a registered partnership contract at a notary, the entry into force of the entry on termination of the registered partnership contract.

Division 2

Consequences of termination of registered partnership contract

§ 21. Termination of transactions related to registered partnership contract

Upon termination of a registered partnership contract, all transactions related to the registered partnership contract which a registered partner had not presumably made if the registered partnership contract had not been entered into also terminate.

§ 22. Housing and property connected with housing of family upon termination of registered partnership contract

Upon termination of a registered partnership contract, the provisions of §§ 68–70 of the Family Law Act apply to the housing and property connected with housing of family.

§ 23. Registered partner's access to other registered partner's child after termination of registered partnership contract

A registered partner who is not a parent of the other registered partner's child has the right of access to the other registered partner's child after termination of the registered partnership contract on the basis of subsection 143 (4) of the Family Law Act.

§ 24. Specifications of consequences of termination of registered partnership contract upon contraction of marriage between registered partners

(1) The provisions of the Family Law Act concerning the relationship between the spouses apply to the relationship between the registered partners as of the contraction of marriage.

(2) Any agreements and related transactions between the registered partners terminate upon termination of the registered partnership contract unless the registered partners agree otherwise. The provisions of the Family Law Act concerning divorce apply to the termination of agreements and related transactions.

(3) The registered partners may agree that the proprietary relationship specified in subsection 16 (1) of this Act applies to their proprietary relationship as of contraction of marriage.

(4) The registered partners may agree that the provisions of Division 3 of Chapter 4 of the Family Law Act concerning marital property contract apply to the agreement between the registered partners on derogating from the proprietary relationship specified in subsection 16 (2) of this Act as of contraction of marriage.

(5) To the extent that the spouses cannot derogate from the provisions of the Family Law Act by agreement, the provisions of law apply as of contraction of marriage.

§ 25. Restoration of registered partnership contract

If a registered partner who has been declared dead returns, a registered partnership contract shall be deemed to be restored if neither registered partner has entered into another registered partnership contract or married in the

meantime. A registered partnership contract shall be deemed to be restored after the entry into force of the court judgment recalling the declaration of death.

Chapter 4

Implementing provision

§ 26. Entry into force of Act

This Act enters into force on 1 January 2016 together with implementing legislation.

Eiki Nestor
President of the Riigikogu