

## Sources of Law

Swedish family law is based mainly on the Marriage Code (1987) and the Code Relating to Parents, Guardians and Children (1949).

Family law also includes the law relating to cohabitants, covered by the Cohabitants ('joint homes') Act 2003:376; (both heterosexual and homosexual cohabitants) and the Partnership Act (1994:1117).

## Jurisdiction

Brussels II applies.

## Domicile and Habitual Residence

Habitual residence is determined in different ways depending on whether the matter is concerning domestic family law or international private law. In domestic family law it is a person's residential registration in the country that determines habitual residence. If a person does not have a residential registration the property forum for initiating proceedings against this person would be where he resides or was last known to reside. Swedish International private law deals with certain international relations concerning marriages. An individual who is resident in a certain state is, for the application of this law, considered to have habitual residence there if the residency, with regard to the duration of the stay and other circumstances, is to be considered 'permanent'.

## Conflict of Law/Applicable Law to be Applied

Lex fori with the possibility to take account of foreign law in certain cases.

## Pre-Nuptial Agreements

Pre-nups are enforced in Sweden.

## Divorce

No ground is required but a 6 month consideration



period is required if one spouse is opposed to the divorce and/or if the spouses have custody of children under 16 years old.

## Finances/Capital/Property

On divorce, all property that is marital property is in principle to be divided equally between the parties.

Pre-marital assets and inherited wealth can be excluded according to pre-nuptial agreements.

Inherited assets or gifts are excluded upon condition that the wealth or gift shall not become marital property.

## Finances/Maintenance

Following a divorce each of the spouses shall according to the general rule be responsible for his or her own support and one spouse should not, in principle, be required to maintain the other spouse. Two exceptions:

1. Maintenance may be awarded during a transitional period to allow time to find employment or undertake relevant training.
2. May be entitled to maintenance extending beyond the transitional period if the marriage was of long duration and the spouse has difficulty supporting him or herself. The level of maintenance in this case tends to be low.

## Child Maintenance

Maintenance payments may be fixed either by agreement or by a court ruling. When maintenance payments to children are determined, the person liable has the right to withhold a sum to cover his or her own living expenses. The financial situation of the other parent is taken into consideration when calculating the level of maintenance.

## Cohabitants

Cohabitants (Joint Homes) Act 2003 - reminiscent of marriage.

The Act states that on dissolution of the cohabitation, an equal division of the value of the home and household goods which have been acquired for common use shall take place, irrespective of party is the owner.

The Cohabitants Act can be set aside by agreement between the cohabitants.

## Civil Partnership/Gay Marriage

As of May 1st 2009, Swedish law no longer differ same sex marriages from marriages between men and women. All matters regarding same sex spouses are dealt with in the same way as matters between spouses of opposite sex. Partnerships registered before May 1st 2009 will continue as such until they are dissolved or transformed into marriages. A registered partnership is transformed into a marriage by way of a simple registration procedure or if the partners wed in accordance with the 4th chapter of the Marriage code.

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