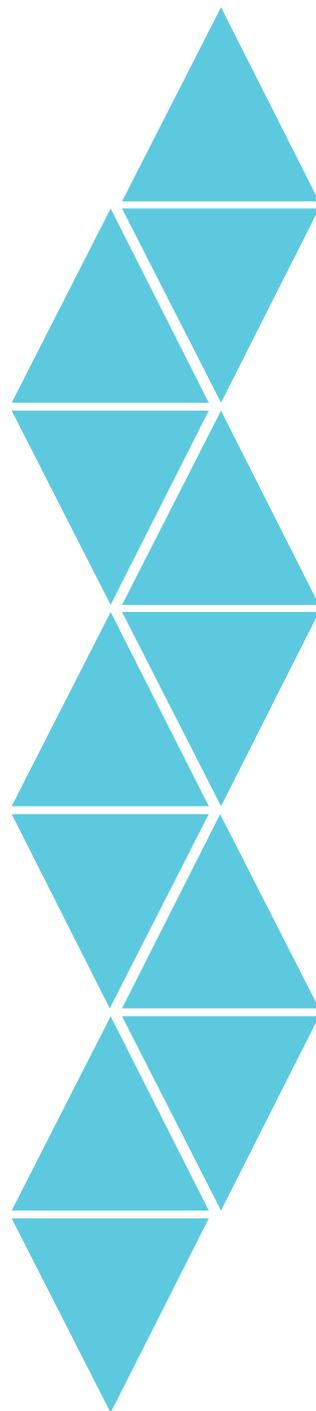
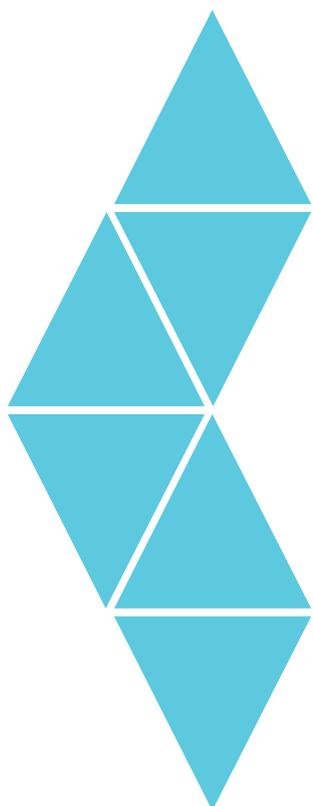


RIGHTS AND RESPONSIBILITIES IN MARRIAGE



JURK

juridisk rådgivning for kvinner

FOREWORD

This brochure is published by Legal Advice for Women (JURK). JURK is an independent legal organisation run by law students. JURK provides free legal assistance to women and to those who identify as women living in Norway.

Reservation is made in case of changes in regulations after publication. Our thanks for all the helpful input from colleagues in JURK

Oslo, June 2001

Karianne Andreassen

Aud Helen Hølmen

Cicilie Ingridrud

Marte Sofie Kjellsvig

This brochure was revised in the spring of 2016 by Ea Lykke Syse, Linn Bugge and Paratee Sumalu.

The brochure was revised again in the spring of 2018 by Inger Lise Mørch and Maria Holvik Høydal.

LIST OF CONTENTS

1.0 INTRODUCTION.....	4
2.0 ASSETS AND THE SITUATION BETWEEN SPOUSES DURING MARRIAGE.....	4
2.1 Right of disposition	4
2.2 Joint ownership.....	5
2.3 Liability for debt.....	6
2.4 Responsibility of maintenance	6
2.5 Obligation to provide information on financial circumstances....	7
3.0 ASSET ARRANGEMENTS	7
3.1 Introduction.....	7
3.2 Community of property	7
3.3 Unequal division.....	8
3.4 Separate property	9
4.0 PROCEDURES IN CASES OF SEPARATION AND DIVORCE	10
4.1 Mediation	10
4.2 Separation	11
4.3 Divorce.....	11
4.4 The effect of separation and divorce	12
5.0 DIVISION OF ESTATE	12
5.1 Choice of law	12
5.2 Introduction.....	12
5.3 Division of the value (net worth)	13
5.4 Unequal division.....	15
5.5 A spouse can withhold the following property from the division	17
5.6 Separate property	18
5.7 Right to individual items of property	19
5.8 Costs incurred from the break-up of marriage and until the division is finalized.....	21
6.0 OTHER MATTERS	22
6.1 Right to maintenance	22
6.2 Temporary rulings on separation, right to use the family home, maintenance and restraining order.....	23
6.3 Private and public division of the estate.....	23
6.4 Example of a marital settlement	25
6.4.1 The facts.....	25

6.4.2 Division of value	26
6.4.3 Division of property	28
6.4.4 Settlement agreement	30
7.0 SOURCES	31

1.0 INTRODUCTION

The aim of the brochure

Our aim in publishing this brochure is to provide a concise presentation of legal matters that may be of interest in connection with marriage. The purpose of the brochure is to draw the reader's attention to the main problems that may arise and to make the reader aware of her rights.

JURK notes that the law is gender neutral and will apply for both women and men.

2.0 ASSETS AND THE SITUATION BETWEEN SPOUSES DURING MARRIAGE

2.1 Right of disposition

The basic rule is that spouses have full right of disposition over their own property and assets in marriage, regardless of whether the spouses practice joint ownership or have separate property. This applies to both the property that is acquired prior to and during the marriage. A spouse has the right to sell, give away and use her own assets. Equally, the spouses do not have right of disposition over the other spouse's assets.

Limitations on right of disposition

There are some limitations in the right of disposition. A spouse cannot, without written consent from the other spouse, transfer, lien, lease, enter into or terminate a rental/lease agreement for property that is used as a family home. Without a written consent from the other spouse, a spouse cannot transfer or mortgage an ownership share, share or bond/debenture that is linked to the family home. This rule applies regardless of which of the spouses who owns or rents/leases the

family home.

2.2 Joint ownership

Spouses can, as explained above, dispose freely over their own property. This means that they can, among other things, agree that the property shall be in joint ownership. Joint ownership can also be formed without an agreement, because of the distinctive relationship in a marriage. Assets/property that has been acquired by both spouses is in joint ownership.

Joint ownership can also be formed through a shared economy, joint payment of costs, and housework.

This rule can only apply in situations where one of the spouses fully or mostly takes care of all the housework, while the other spouse works outside the home, and earns an income. The homemaker will attain joint ownership for her efforts on equal grounds as the working spouse. The rule ensures that housework is valued equally as working outside the home. This is because if one spouse fully or mostly takes care of the housework, this enables the other spouse to work outside the home, and earn an income, and property.

The right to dispose over joint ownership property follows legal rules for joint ownership. This means that a spouse has the right to use her share of the property. Note that the limitations described under section 2.1 above also apply to joint ownership property.

If the ownership share is transferred as a gift between the spouses, this must be done in the form of a pre- or postnuptial agreement in order to be valid. A prenuptial agreement must be in written form and be confirmed by two witnesses.

2.3 Liability for debt

The main rule As a main rule a spouse is responsible for her own debts. The spouse who loans the money, is the one who is responsible to pay it back.

Spouses may agree that although only one of them has borrowed money, both of them shall be responsible for paying it back. The person or institution who has lent the money can still only claim the money from the spouse who has borrowed it. However, the spouse who has borrowed the money can claim money from the other spouse if they have agreed that both of them shall be responsible. The agreement does not have to be in written form, it can also be an oral agreement.

2.4 Responsibility of maintenance

The spouses have an equal responsibility for the expenses and the work that is necessary to run the household and to cover expenses, the raising of children and each of the spouse's individual needs. This includes expenses incur to cover clothing, entertainment, transport and medical services. The spouses can contribute with money and housework or by other means.

Each spouse shall contribute to the best of their ability and financial capacity.

A spouse can, within reasonable limits demand money from the other spouse to cover the expenses described above. A spouse that fails to contribute can be ordered by the court of law to pay a fixed sum.

2.5 Obligation to provide information on financial circumstances

Spouses have an obligation to provide each other with all necessary information required to make a full assessment of each other's financial positions. In connection with this a spouse can demand that the other spouse provides information on or copies of the joint or individual tax returns and assessment. A spouse can also demand information from tax authorities, banks and insurance companies. Each spouse has this right until the financial settlement after a separation or divorce has been finalised.

3.0 ASSET ARRANGEMENTS

3.1 Introduction

As long as the spouses remain married, agreements on community of property or separate property will be of no import to the partners in marriage. Such matters only become of import when the spouses shall divide the marital estate on dissolution of the marriage or through the death of one of the spouses.

3.2 Community of property

The main rule

If the spouses do not have a prenuptial agreement, the spouses have community of property. Community of property encompasses the separate assets of both spouses over which they have actual rights of disposition. In other words community of property – here also marital property – is the assets each spouse brought into the marriage and the assets that the spouses

have jointly acquired while being married. It is important to emphasise here that such community of property does not impose any additional limitations on a spouse's right to dispose over her own property other than limitations in section 2.1.

When the marriage is dissolved, the main rule is that community of property shall be divided equally between the spouses after the deduction of debts has been made.

**Community of property/
Joint ownership**

It is important to be aware that community of property is not the same as joint ownership.

Example:

Lars and Kari are married. They purchased a house together. The house is jointly owned by Lars and Kari. The house is also community of property.

Lars has purchased an expensive bicycle and a cabin. Lars owns these items alone, but they are also community of property. Kari owns her savings, but these are also community of property.

Unequal division

Although the basic rule when dividing community of property is that assets shall be divided equally, there are exceptions. One exception is unequal division (skjevdeling).

3.3 Unequal division

The exception applies to the value of assets that can clearly be traced back to means that each spouses:

1. had at the time the marriage was contracted, or
2. has later been received by inheritance, or

3. received as a gift from another person than the other spouse.

You can read more in section 5.3 and 5.4.

3.4 Separate property

The spouses can agree on a different arrangement for their assets than community of property. They can agree that the assets they own or later acquire shall be withheld from the division. The legal term for this is separate property. An agreement prior or during the marriage must be made as a prenuptial agreement and have a defined form. Freedom of contract only applies when an agreement is entered after breakups.

Separate property variants

An agreement on separate property can apply to both or only one of the spouses' property and/or assets. It can also apply to some part of the property and/or assets. The agreement can also be made time-limited or with conditions. The spouses can also decide that separate property shall not apply if one spouse dies, called *divorce separate property*.

Formal requirements

In order for a prenuptial agreement to be valid, it must fulfil formal requirements. If the formal requirements are fulfilled, the agreement will be legally binding for both spouses and for their heirs. If the agreement is to be legally binding in relation to the spouses' creditors, it must be registered in The Brønnøysund Register Centre.

Prenuptial agreement

A prenuptial agreement must be made in writing. The spouses must, at the same time and in the presence of two witnesses that have been accepted by both spouses, sign the prenuptial agreement or confirm their previous signature. The spouses and witnesses must be present at the same time, and they must understand that

a prenuptial agreement is being entered. The witnesses must be of legal age (18) and of sound mind.

A giver or testator can decide that a gift or inheritance shall be the recipient's separate property.

The wish of the giver or testator

If a testator wants to make the inheritance the recipient's separate property she has to include that wish as a clause in the will.

If a giver wants to make a gift the recipient's separate property, she must decide this at the time when the gift is given. In the interests of securing evidence, the giver should also make a written explanation of their wish.

The recipient cannot change such clauses unless this has been especially agreed upon or clearly premised by the giver or testator.

4.0 PROCEDURES IN CASES OF SEPARATION AND DIVORCE

4.1 Mediation

Agreements on parental responsibility, visitation rights and habitual residence

Spouses that have children together under the age of 16 must attend mediation session before a separation or divorce can be granted. The purpose of mediation is to reach an agreement on parental responsibility, visitation rights and where the children will live on a permanent basis. Decisions in child affairs are based on what is best for the children.

Mediation certificate

After the spouses or one spouse have been to the mediation session, they will be given a mediation

certificate that proves that they have attended the session. The certificate must be submitted together with the application for separation and divorce.

4.2 Separation

Application for separation

A spouse that does not wish to continue the marriage can apply for separation. It is not necessary that the other spouse agrees, neither is it necessary to give reasons. Application forms are available from the Regional Commissioner (fylkesmannen), and must be sent to the Regional Commissioner in the spouse's county of residence. For more information please visit the website: www.fylkesmannen.no.

During separation, spouses must live apart from each other for a year. A separation has no effect if the spouses continue or restore the marriage. Interim period until the spouses move apart and short-term attempts to repair the marriage will not affect the separation period.

4.3 Divorce

Divorce after separation or breakdowns in married life

Both spouses can demand a divorce when separation has been a fact for one year or more. The same applies if marital relationships have been breached for more than two years without the spouses filing for separation.

Divorce on the basis of assault/harassment

A spouse can demand a divorce without prior separation if the other spouse has willfully attempted to kill her or the children. The same applies if the other spouse has willfully exposed them to or inflicted on them grievous harm, or if the spouse has acted in a manner that gives

cause for grave fear that such behaviour may incur. Application for divorce in such cases must be made within certain deadlines.

4.4 The effect of separation and divorce

A separation or divorce comes into effect on the day the Regional Commissioner grants separation/divorce, or a court ruling is pronounced, unless otherwise specifically agreed. It is illegal to enter into a new marriage before you are legally divorced.

5.0 DIVISION OF ESTATE

5.1 Choice of law

(hentet fra grått brev)

Norwegian law is based on the principle that the division of the spouses' assets is regulated by the law of the country in which the spouses had their first habitual residence after marrying. Habitual residence means the first country in which the spouses intended to stay.

The spouses can agree that Norwegian law shall apply.

5.2 Introduction

Freedom to enter into an agreement

The spouses have the right to enter into an agreement on the division. This means that the spouses are free to agree on how and when the division is to take place. If the spouses fail to agree on this, the Marriage Act shall apply.

When one can demand division

A spouse can demand division of estate when a separation or divorce has been granted.

Cut-off date

The cut-off date is the date the Regional Commissioner

received application for separation or divorce, or when marital relationship ended (if this happened first). It is the assets that each of the spouses had at the cut-off date that shall be equally divided. Assets received after the cut-off date are not part of the division.

Debts incurred by a spouse after the cut-off date are not part of the division. The spouses cannot claim deductions for such debts.

5.3 Division of the value (net worth)

The main rule

The main rule of the Marriage Act is that the spouses' estate that is community of property shall be divided equally after deductions for debt has been made. Note that we are explaining the division of the value (net worth) of the community of property. The actual division of the spouses' property is dealt with in section 5.6 and 5.4.

It is the net worth that is to be equally divided between the spouses. For that reason it is important to find out how much debt each of the spouses are responsible for. Further it is important to find the source of the debt.

Details of deduction for debts

A spouse who only has community of property and is not claiming unequal division can deduct all her debts in what she owns regardless of where the debt comes from.

Example

Kari owns a car which she bought during marriage. At the time of the separation the car is worth 500 000 NOK. She also has a debt of 100 000 NOK. Ola owns a cabin which he bought during marriage. The cabin is worth 300 000 NOK. Ola is free from debt. The spouses only have community of property.

	Kari	Ola
Community of property	500 000	300 000
Debt	- 100 000	- 0
Equal division	400 000/2	300 000/2
What each spouse has to share with the other spouse	200 000	150 000

Each of the spouses get:

$$200\ 000 + 150\ 000 = 350\ 000\ \text{NOK}$$

Debts that a spouse has incurred by increasing the community of property or when making improvements to community of property can be deducted. This rule applies even if the spouses have value of unequal division or separate property.

Debts that a spouse has incurred by increasing the separate property or when making improvements to their separate property can only be deducted when the total worth of the separate property and the value of unequal division are insufficient to cover the debts.

Other debts such as student loans and consumer loans can be deducted proportionally. The rules regarding other debts might be difficult to understand. If a spouse has value of unequal division or separate property a proportional share of other debts shall be deducted.

Example:

Egil and Kathrine are divorcing. They own a house which is community assets worth 800 000 NOK. Egil has a student loan of 100 000 NOK. He owns a cabin which is separate property worth 400 000 NOK

$$\text{Kr } 100\,000 \times \frac{800\,000}{(800\,000 + 400\,000)} = 66\,000 \text{ NOK}$$

The example illustrates that Egil can deduct the student loan proportionate with 66 000 NOK from their community property (800 000 NOK). This example shows that Egil cannot deduct all of his other debts (student loan) from the community property.

5.4 Unequal division

Assets that can be excluded

Not all assets have to be divided equally. The exception applies to the value of assets that can clearly be traced back to means that one spouse:

1. had at the time the marriage was contracted, or
2. has later been received by inheritance, or
3. received as a gift from another person than the other spouse.

When a spouse claims unequal division, she can only withhold the net worth of the assets. This means that it is the net worth that was brought into the marriage that can be kept from equal division. If a spouse had more debt than assets when she got married, the main rule is that she cannot claim unequal division.

Conditions

If a spouse wants to withhold assets from the equal division, the spouse must claim unequal division. The spouse who claims unequal division has to prove that the

assets were acquired before the marriage was contracted, received by inheritance, or as a gift from another person than the other spouse.

The right to claim unequal division presupposes that the value of assets has not been consumed. If the assets have been exchanged for other permanent items, they will nonetheless be considered as retained. The person demanding unequal division must prove this.

Has the value of an asset increased due to changes in the market, normally a proportional share of the increased value can also be kept out of the equal division. If some of the value has increased due to effort of both spouses during the marriage, this value must be divided equally between the spouses. This could for example be an increase of value because of renovation.

If the value has decreased it is the present value that can be kept out of the equal division.

Rule of value

Unequal division is a rule of value. This means that it is the asset's value that can be kept from equal division. Unequal division gives no right to keep the object itself.

**Cohabitation prior to marriage
Limitations in the right to unequal division**

Assets acquired during a pre-marriage cohabitation can be subject to unequal division.

If unequal division will result in an obvious disadvantageous result for the other spouse, the right to unequal division can be limited. In the assessment, the length of the marriage, housework, taking care of children is emphasised.

This rule of exception is strictly interpreted. The court will consider each case individually.

The spouses can also agree to relinquish the right of unequal division through a prenuptial agreement.

Extension of the right to unequal division in special cases

If there are strong grounds for it, a spouse is given the right to unequal division of community property. This rule of exemption is strictly interpreted.

5.5 A spouse can withhold the following property from the division

Personal property

Personal items like clothing, jewellery and family photographs from their own family can be withheld from the division. The items cannot be withheld if it would be obviously unfair.

That the item is used by one spouse only, is not sufficient to keep an item from the division. The item has to be for the exclusive personal use of the spouse. How much the item is worth does not solely matter for whether it can be withheld from the division. But note that items of high value may be obviously unfair to withhold.

Social security rights

Rights in public social security benefits, a public or private pension scheme, and the right to annuities or life insurance that has no redemption value, can be withheld from the division.

If the withhold of items leads to the other spouse being unreasonably disadvantaged, she can be awarded a sum of money. When assessing whether compensation is to be given, emphasis shall be placed, amongst other factors, on the length of marriage.

Other exceptions

Items of a personal nature and rights that cannot be transferred can also be withheld from the division. If the other spouse is unreasonably disadvantaged, she

can be given compensation.

Compensation, social security benefits or insurance that are meant to cover costs and losses of future income in the case of personal injury, can be withheld from the division. The same applies to damages, industrial injury insurance and damages for pain and suffering etc.

The amount of compensation must be intact. If the amount of compensation is intact due to the efforts of the other spouse, the amount can be reduced.

Payments from employers in connection with dismissal or early retirement can also be withheld from the settlement as explained in the paragraph above.

The spouse who shall have the children living at home on a permanent basis can demand possession of items that are acquired especially for use by the children.

5.6 Separate property

Items that are separate property shall be withheld from the division. This means that such items shall not be included in the settlement. If the spouses have totally separate property, each spouse retains his/her property in the settlement. In the case of partial separate property, items that are separate property are not included, while the rest of the assets are divided in accordance with the rules on community property.

Claims for compensation

If one spouse has used community property to increase the value of her separate property, the other spouse can claim compensation. It is only possible to claim compensation if the other spouse has remaining funds after debts have been deducted. Compensation can be paid in instalments.

If a spouse's contribution to the upkeep of the family (through work or by other means) has considerably contributed to increase the value of the other spouse's separate property, compensation may also be given.

5.7 Right to individual items of property

Own property

Both spouses have the right to keep objects and rights that the spouse have solar ownership of or owns with 75 % or more. If the spouses own an object 50/50, no one has better right to keep it. If full ownership will lead to an obviously unfair result, the rule will not apply.

When assessing whether full ownership will lead to an unreasonable unfair result, the court will take in consideration the other spouse's interest in taking over the object.

Shared family home and household goods

A spouse can claim the right to take over the previous shared family home and household goods when there are special reasons for doing so. This applies regardless to the previous ownership. When assessing this, emphasis shall be placed on the best interests of the children and the spouse.

The requirement for special reasons is not strict. It is usually sufficient that a spouse can show that she has a greater need for the family home than the other spouse. Special reason can be if a spouse has the children living with her on a permanent basis.

If a spouse has inherited the family home or has received it as a gift from her family, the other spouse cannot claim the right to take over.

Usage rights/ beneficial

Even if one spouse takes over the family home, the other spouse can be awarded right of usage. This applies to all types of family homes, including inherited property. The

rights

assessment shall take into account the needs of the children and the spouse. Usage can be time-limited, but shall be given for as long as it is necessary, typically until the children leave home.

Rent in case of usage

Many are unaware that if a spouse partly or fully owns a house and lets the other spouse stay there alone until the settlement is finalised, she can demand rent from the other spouse. The rent shall be of market rate, unless the spouses have agreed otherwise.

Rent in case of coownership

Where the family home is co-owned by the spouses, the spouse that moves out can demand rent from the other spouse who continues to live in the family home. If rent is demanded, then the fixed costs shall be split proportionally on the basis of the spouses' ownership parts.

The rent begins to run from the time it was claimed. The rent can therefore not be claimed back in time. The demand should be made in writing.

Valuation

If the spouses do not agree on the value of an item that a spouse shall keep, the value shall be determined by means of a probate valuation. This is expensive, and it is therefore to the advantage of the spouses to agree to let an appraiser value the item. The value shall correspond to the market value.

If a spouse keeps property that is his/her sole property, the value of the property shall be set on the value at the time of the cut-off date. This means one bears the risk for fluctuations in value after this date.

If the spouses divide the estate under public administration, and a spouse takes over an item that he/she did not previously solely own, then the valuation shall be based on the value at the time of the

distribution.

The distribution date is the date on which the court transfers the item to the spouse. If the spouses divide the estate under private administration, the cut-off date shall be based on the value at the time it was decided who should take over the item. You can read more about private and public administration in section 6.3.

Payment

If a spouse takes over items and the total value of all the items exceed value the spouse was entitled to after the equal division, he or she shall pay the excess amount to the other spouse.

Sale of the spouse's property

Each of the spouses may demand that items that are not taken over by any of them are to be sold.

Private letters and other items of which the sale to strangers would be objectionable may not be sold to a third party.

Each spouse can demand that the sale is executed through the enforcement authorities in accordance with the regulations that govern forced sale.

The simplest and best solution is that the parties agree and sell the property without intervention of the enforcement authorities, for example the sale of a house through a real estate agent. Both spouses have pre-emptive purchase rights under the same terms.

5.8 Costs incurred from the break-up of marriage and until the division is finalized

From the break-up of marriage and until the division is finalised, costs shall be paid by the spouse who owns the property to which the costs are linked. If the property is jointly owned, both spouses are liable for the costs. In

addition the spouse that retains residence can be charged rent by the other spouse, see section 5.6.

6.0 OTHER MATTERS

6.1 Right to maintenance

Obligation to contribute to joint maintenance

During the marriage the spouses have a mutual obligation to contribute to maintenance, see section 2.4. When the marriage is under separation or dissolved through divorce, the main rule is that this obligation no longer applies. The same applies in case of marital breakdown.

Maintenance

If the ability and opportunity of a spouse to ensure adequate support have been reduced as a result of caring for children of the marriage or of the distribution of joint tasks during cohabitation, the other spouse may be ordered to pay maintenance.

The spouses can enter into an agreement on maintenance. If the spouses do not agree, each of them may take the question to the court. Both parties can also agree that the question can be decided by NAV. The spouses may demand a decision on the question of maintenance even if they have previously entered into an agreement regarding this question.

Further, each of the spouses can demand that a contribution that has been decided by the court or by NAV is changed or repealed if there are substantial grounds for demanding this.

Duration of maintenance

Maintenance shall be determined for a limited period not exceeding three years. If there are special reasons,

maintenance may be determined for a longer period of time or without any time limit. If the marriage has lasted for a long time, maintenance shall as a general rule be determined for a longer period of time or without any time limit.

The right to maintenance ends if recipient enters into a new marriage or the contributor dies.

6.2 Temporary rulings on separation, right to use the family home, maintenance and restraining order

A spouse can petition a court to decide a temporary ruling on separation, the right to maintenance, or usage rights to the family home and household goods.

Such temporary rulings can also be made before separation is demanded or a petition for divorce is raised. There must be special reasons for doing so.

Temporary ruling applies until the question of separation, maintenance or usage rights has been made legally enforceable.

6.3 Private and public division of the estate

The division of the spouse's assets can be done under private or public administration. The same rules apply to both private and public division. As mentioned in section 5.1 the parties can enter into an agreement on division regardless of the provisions of the Marriage Act.

Private division

If the spouses choose a private division, they shall make the arrangements for the division and implementation of this. The Marriage Act has no rules regarding the

implementation of the division. The agreement reached concerning the division should be in writing in order to avoid disputes later. There is an example of an agreement on division in section 6.4

The spouses can decide whether they wish to ask for assistance in dealing with the division, either by lawyers or other legal advisors.

Public division

Public division is administrated by a court of law. Each spouse has the right to demand public division. The other spouse cannot prevent this. The court will clarify unsolved matters between the parties and finalise the division by distributing the assets.

A public division can be very expensive. For more information about public division, you can contact your local court.

Preparatory court hearing

If the spouses fail to agree on the division, the spouses can also request the court to arrange a preparatory court hearing. In this option the judge will mediate between the parties. Many cases are resolved at this level.

Adjustment of unreasonable or unfair agreements

An agreement on division may be wholly or partly annulled by the court if it will have an unfair effect for one of the parties.

Instead of annulling the agreement, the court may decide that the spouse who is placed in an unfairly adverse position is to be awarded compensation.

Petition must be brought not later than three years after the agreement was entered into.

6.4 Example of a marital settlement

6.4.1 The facts

The following is a theoretical settlement. We have tried to illustrate how the division of estate is according to the Marriage Act.

Lars and Kari married in 1985. They are now separated, and their estate is to be divided.

In 1990 the spouses bought a house together for 500 000 NOK. Kari contributed with 50 000 NOK to the purchase amount. Kari had received the 50 000 NOK as a gift from her mother during the marriage. The rest of the purchase amount was financed by loan. The spouses are jointly and severally liable for the loan.

The value of the house at the cut-off date is 2 000 000 NOK. The outstanding debt is 300 000 NOK.

Over the years Lars and Kari have owned a number of different cars. The value of their current car is 200 000 NOK at the cut-off date. The outstanding debt is 100 000 NOK. The spouses own the car together and are jointly and severally liable for the loan

In 1997 Kari inherited a cabin from her father. Her father's will decided that the cabin was to be her separate property.

At the cut-off date the value of cabin is 500 000 NOK. Kari has taken up a loan to refurbish the cabin. The

outstanding loan is now 200 000 NOK.

In 2000 Lars purchased a painting from an artist friend. At the cut-off date the value of the painting is 50 000 NOK. During the early years of the marriage. Lars was studying. At the cut-off date he has a student loan of 100 000 NOK.

6.4.2 Division of value

Kari's assets	Value	
Items that can be excluded	200 000	Means of unequal division. (Kari received 50 000 NOK as a gift. The value has increased due to changes in the market)
	500 000	Separate property items, cabin
Debts linked to separate property	- 200 000	Debt on cabin
Community of property	900 000	Half of house minus Kari's unequal divisions items
	100 000	Half the car
Debts linked to community of property	- 150 000	Half the debt on the house
	- 50 000	Half the debt on the car
For division on Kari's side	800 000	

Lars' assets	Value	
Community of property	900 000	Half of house minus Kari's unequal divisions items
	100 000	Half the car
	50 000	The painting
Debts linked to community of property	- 150 000	Half the debt on the house
	- 50 000	Half the debt on the car
	- 100 000	Student loan
For division on Lars' side	750 000	

This can also be displayed as follows:

Item	Total amount	Kari		Lars	
		Community of property	Separate property/ Means of unequal division	Community of property	Separate property/ Means of unequal division
House	2 000 000	900 000	200 000	900 000	
Car	200 000	100 000		100 000	
Cabin	500 000		500 000		
Debts					
House	- 300 000	- 150 000		- 150 000	
Car	- 100 000	- 50 000		- 50 000	
Cabin	- 200 000		- 200 000		
Student loan	- 100 000			- 100 000	
Net worth		800 000	500 000	750 000	

Kari's contribution to the equal division is 800 000 NOK. Lars must contribute 750 000 NOK to the equal division. Kari's means of unequal division and her separate property are not incorporated.

According to the rule of community assets, the spouses shall each have 775 000 NOK.

Calculation:

$$800\,000 + 750\,000 = \underline{1\,550\,000}$$

$$1\,550\,000 / 2 = \underline{775\,000}$$

Below follow calculations that shows the value each of them shall have from the division of assets:

Kari:

Community of property: 775 000 NOK

+ Unequal division: 200 000 NOK

+ Separate property: 300 000 NOK

Total amount: 1 275 000 NOK

Lars:

The total amount Lars will receive is 775 000 NOK. This is because he only has community of property

6.4.3 Division of property

Since Kari and Lars have divided the value of their assets, they have to divide their properties.

Lars and Kari agree that Lars will take over the house. He will also take over the loan on the house. Kari will take over the car and the debt owed on this. The spouses

otherwise keep their sole property.

Lars takes over	Worth of item in NOK	Kari takes over	Worth of item in NOK
House	2 000 000		
Painting	50 000	Car	200 000
Debt, house	- 300 000	Debt, car	- 100 000
		Cabin	500 000
Student Loan	- 100 000	Debt, cabin	- 200 000
Takes over total	1 650 000	Takes over total	400 000

Lars takes over properties worth 1 650 000 NOK. Kari takes over properties worth 400 000 NOK.

According to the division of value Kari should have 1 275 000 NOK.

Lars has to pay Kari the remaining:
 $1\,275\,000 - 400\,000 = \underline{875\,000\text{ NOK}}$

From the division Kari will receive:
 $400\,000 + 875\,000 = \underline{1\,275\,000\text{ NOK}}$

Since Lars has to pay Kari, the genuine value Lars will receive after the division is:
 $1\,650\,000 - 875\,000 = \underline{775\,000\text{ NOK}}$

6.4.4 Settlement agreement

The following is an example of a settlement Agreement

Settlement agreement

The following agreement has been entered between Kari Nordmann, (date of birth) and Lars Nordmann, (date of birth):

1. Lars Nordmann takes over the house with the address Lillevikveien 2, 1234 Lillevik, land register number 3, plot number 25. All costs connected to the transfer of the property shall be paid by Lars Nordmann

2. Lars Nordmann assumes sole liability for the loan on the house, loan number 1234 55 6789. All costs connected to the transfer of the loan shall be paid by Lars Nordmann

3. The parties shall otherwise retain their personal debts.

4. Kari Nordmann takes over the car, registration number AB 12345 and the debt on this.

5. The spouses shall retain their separate, private bank accounts in their own names.

6. Kari Nordmann keeps the cabin.

7. Lars Nordmann pays Kari Nordmann 875 000 NOK within (date).

8. Household goods and chattels shall be divided amongst

the parties under a separate agreement.

In implementing this agreement between Kari Nordmann and Lars Nordmann is deemed to have been divided with final and legal effect and the parties have no further claims against each other in connection with the settlement. This agreement is signed in 2 - two- original copies of which each party keeps one.

Place/date

Kari Nordmann

Lars Nordmann

7.0 SOURCES

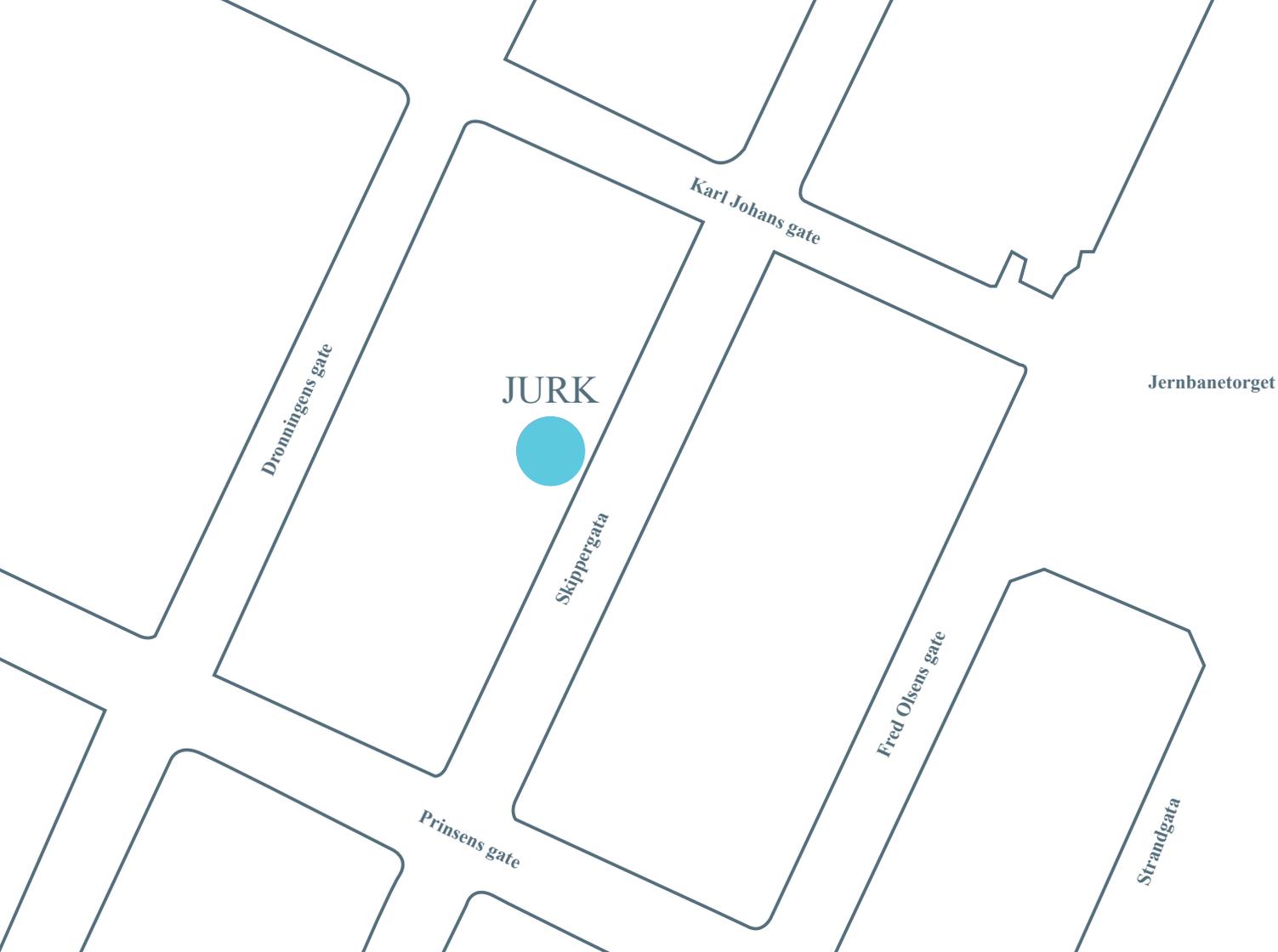
Holmøy, Vera and Lødrup, Peter. Ekteskapsloven og enkelte andre lover med kommentarer. 2. utg. Oslo, 2001.

Lødrup, Peter. Familieretten. 3. utg. Oslo, 1997.

Strandbakken Asbjørn. Norsk lovnøkkel nr. 5 Ekteskapsloven. Ad Notam Gyldendal, 1995.

Sverdrup, Tone. Stiftelse av sameie i ekteskap og ugift samliv. Universitetsforlaget, 1997.

www.regjeringen.no/en/dokumenter/themarriage-act/id448401/



KONTAKT OSS

**Telefon:
22 84 29 50**

**Adresse:
Juridisk rådgivning for kvinner
Skippergata 23
0154 Oslo**

www.jurk.no

