

**Decree
of 29 May 1946
Matrimonial property law
(Journal of Laws No. 31, item 196)**

Pursuant to the Law of 3 January 1945 on the procedure for issuing decree-laws (Journal of Laws of the Republic of Poland, No. 1, item 1), the Council of Ministers resolves, and the Praesidium of the State National Council approves, as follows:

**Section I.
Rules applicable to all matrimonial property regimes.**

Article 1.

In applying the provisions of this law, the well-being of the family that the spouses have formed by their union must be taken into account.

[keywords: well-being of the family]

Article 2.

Spouses should keep each other informed about the state of their property and confer with each other before carrying out major management actions.

[keywords: administration of spouses' property]

Article 3.

If one of the spouses administers the property of the other without a specific power of attorney, they shall be deemed to be a general representative. They should, at the request of the other spouse, give account of the administration, but only for a period of no more than one year counting backwards from the date of the request.

[keywords: presumption of authority to manage a spouse's property]

Article 4.

In the event of illness or temporary absence of one of the spouses who has no representative, the other spouse may act for them in matters of ordinary administration, in particular they may collect their income.

[keywords: administration of the property of an absent spouse]

Article 5.

A waiver by one spouse of the right to deny the other spouse the administration or to revoke the power of attorney granted to them concerning such administration shall be null and void.

[keywords: revocation of power of attorney]

Article 6.

The spouse who has been declared bankrupt shall lose the administration of the other spouse's property at that moment.

[keywords: bankruptcy of a spouse, administration of the property of a spouse]

Article 7.

A spouse may request a court to determine the amount of each spouse's share of the burden of family maintenance.

[keywords: family maintenance]

Article 8.

If a spouse fails to meet their obligation to contribute to bearing the burdens of family maintenance, the court may order that the salary or other dues accruing to that spouse be paid in whole or in part to the other spouse.

[keywords: payment of remuneration to a spouse]

Article 9.

If the spouses have drawn up a joint inventory of the movable property of one or both of them, the person of the owner named in the inventory shall be deemed to have been established between them.

[keywords: joint inventory]

Article 10.

An inventory drawn up before the marriage shall give rise to a presumption on the part of the creditors of the spouses as to the owner, provided that it has been drawn up in the form of a notarial deed.

[keywords: form of joint inventory, presumption of ownership]

Article 11.

The condition of an asset or its appraisal, as established in the inventory, shall constitute the basis for mutual settlements between the spouses in the event that the asset is missing or has diminished in value, where one of the spouses is liable for this.

[keywords: joint inventory, settlement]

Article 12.

A spouse's items of personal use, such as clothing, underwear and items needed for their work, shall be presumed to be the personal property of that spouse, regardless of who purchased them.

[keywords: items of personal use]

Article 13.

The limitation period for claims of one of the spouses against the other shall be suspended for the duration of the marriage.

[keywords: statute of limitations]

Section II.

Statutory property regime.

Article 14.

The property relations between the spouses shall be subject to the statutory regime unless the spouses have subjected themselves to the contractual regime or unless they are subject to the coercive regime by operation of law or under a court decision.

[keywords: statutory regime]

Article 15.

§ 1. Each of the spouses shall retain their personal and acquired property, and they may administer and dispose of it unless otherwise provided by this law.

§ 2. The acquired property of both spouses that is present once the statutory regime is no longer applicable shall constitute their joint property in equal shares.

§ 3. No future shares in the acquired property may be disposed of or seized for as long for as the statutory regime applies.

[keywords: personal property, acquired property]

Article 16.

A spouse's personal property shall include:

- 1) the property that the spouse had at the time when the statutory regime was established;
- 2) the property acquired through inheritance, bequest, donation or fortune;
- 3) the property obtained in exchange for the existing personal property;
- 4) any increase in the value of the personal property;
- 5) items of personal use, such as clothing, underwear and items needed for work;
- 6) inalienable rights and rights which are strictly linked to the person of the spouse, such as copyrights held by the spouse as the author, inventor rights, claims for redressing personal damage suffered or compensation for moral damage.

[keywords: personal property]

Article 17.

§ 1. Property which does not constitute personal property shall be deemed acquired property.

§ 2. A spouse's acquired property shall be, in particular:

- 1) the income from their personal and acquired property accrued throughout the duration of the statutory regime;
- 2) the income accrued during that time from the spouse's own work and diligence;
- 3) the property obtained in exchange for the existing acquired property.

[keywords: acquired property]

Article 18.

In the event of any doubt, the property concerned shall be deemed as acquired.

[keywords: presumption, acquired property]

Article 19.

Household items acquired throughout the duration of the statutory regime which the spouses need to share, such as furniture, tableware and kitchenware, shall be owned jointly by the spouses in equal shares, even if they were purchased from the property of one of the spouses. In such a case, a claim for replenishing the property from which the

aforementioned items were acquired shall be excluded.

[keywords: household items]

Article 20.

§ 1. A spouse may not dispose of or encumber any real estate or dispose of any profit-making enterprises without the consent of the other spouse, which must be expressed in writing to be valid, provided that such real estate and enterprises have been acquired under the statutory regime.

§ 2. The above provision shall not apply to real estate or enterprises acquired through inheritance, bequest or donation.

§ 3. If one of the spouses refuses to give consent or if they are unable to express their will, the court shall permit the other spouse to carry out a given transaction, provided that it is in conflict with the interests of the family.

[keywords: transfer of immovable property, consent of spouse, invalidity of legal transaction]

Article 21.

§ 1. If a legal transaction which requires the consent of the other spouse has been carried out without that consent or without a court permit issued in lieu of it, that spouse may, within three months of becoming aware of the transaction, but not later than one year after the transaction, demand that the transaction be set aside.

§ 2. A legal transaction carried out against payment may not be demanded to be set aside if the purchaser acted in good faith on the basis that the consent was not required or that it was duly given.

[keywords: nullification of the legal act]

Article 22.

Once the statutory regime is no longer applicable, the personal property of each of the spouses shall be determined, taking into account, where demanded by the parties concerned, the amount of returns to the personal property from the spouse's remaining property or from the other spouse's property, as well as returns to these properties from the personal property. The amount of the returns shall be calculated according to the value as of the date of settlement.

[keywords: termination of statutory regime, settlement]

Article 23.

Unless specified otherwise, a donation or provision made jointly by the spouses to their

child shall be credited in equal parts to the acquired property of each of the spouses, and the excess shall be credited to their personal properties proportionally to their amounts.

[keywords: joint donation]

Article 24.

If the amount due as a return from the property of the deceased spouse to the surviving spouse cannot be fully satisfied from the former, the surviving spouse may not claim the missing amount in court.

[keywords: limitation of enforcement]

Article 25.

Debts owed by a spouse as of the date when the statutory property regime becomes no longer applicable shall be credited primarily to their personal property if they were incurred before the regime became applicable or if they arose from torts.

[keywords: debts, personal property, torts]

Article 26.

§ 1. The property of a spouse that is left after the separation of their personal property shall constitute that spouse's acquired property.

§ 2. The acquired properties of both spouses, after the deduction of each spouse's liabilities from the respective properties, shall form a joint property which shall be divided in half between the spouses or their heirs.

[keywords: personal property, acquired property]

Article 27.

§ 1. Where a spouse has been found guilty of an offence against the life of the other spouse, the former may be deprived by the court of their share in the acquired property in whole or in part if they did not contribute to creating it or contributed only slightly.

§ 2. The above provision shall apply also in the case of a divorce where one of the spouses is found the sole party at fault.

[keywords: offence against the life of the spouse, verdict of fault]

Article 28.

The spouse who has concealed part of the acquired property shall lose the right to their

share of the concealed part.

[keywords: concealment of property]

Article 29.

§ 1. If a spouse renounces their share of the part that comes from the other spouse's acquired property before proceeding to the determination of former's acquired property, the latter may claim half of the net acquired property of the renouncing spouse in addition to keeping their own entire acquired property.

§ 2. The benefit thus obtained by one of the spouses shall be subject to applicable provisions of the inheritance law concerning the reduction of bequests and donations.

§ 3. A renouncement of a share in the acquired property shall be made in writing, failing which it shall be null and void.

[keywords: renouncement of a share in the acquired property]

Section III.

Contractual property regimes.

Chapter I.

General provisions.

Article 30.

§ 1. Persons entering into a marriage may establish in their matrimonial property contract a regime other than the statutory regime.

§ 2. Regimes that may be established in a matrimonial property contract shall include the property separation regime, the general joint property regime and the joint acquired property regime.

§ 3. In addition, a different contractual regime may be established under the rules provided for the statutory regime and the regimes referred to in the preceding paragraph. In particular, a defined part of property may be subject to the joint property regime, certain assets of the spouses' personal property may be included in the joint property, and a general joint property may be established in the event of death.

[keywords: contractual regime, prenup]

Article 31.

Throughout the duration of the marriage, the spouses may change the current property regime under their matrimonial property contract.

[keywords: change of property regimes]

Article 32.

The reservation in favour of the spouse of a share in excess of half of the estate to be divided once the property regime is no longer applicable may not impinge on the reserved portion of the estate which devolves to the heirs of the deceased spouse.

[keywords: reserved portion of the estate]

Article 33.

A change of the regime during the marriage may not limit the spouses' liability for debts incurred prior to the change.

[keywords: liability for debts]

Article 34.

Before changing the regime, the spouses should make a final settlement of their previous property relations according to the rules of the regime to which they were subject prior to the change.

[keywords: settlement]

Article 35.

The matrimonial property contract should be made in the form of a notarial deed, failing which it shall be null and void.

[keywords: form of prenup]

Article 36.

The matrimonial property contract shall constitute the basis for making entries in mortgage and land registers, the commercial register and other registers.

[keywords: prenup, land registry entry]

Chapter II.
Property separation regime.

Article 37.

§ 1. In the case of separation of property, each of the spouses shall retain their own property as well as the administration, use and right of disposal thereof.

§ 2. The matrimonial property contract may provide that administration and use of the property of one of the spouses may be conferred on the other spouse.

[keywords: property separation]

Chapter III.
General joint property regime.

Article 38.

§ 1. In the general joint property regime, the property of both spouses, with the exception of their personal property, which belonged to them before the regime was established and acquired throughout its duration shall be owned jointly by both spouses.

§ 2. A spouse's personal property shall be the property designated as such by the spouses in the matrimonial property contract, as well as the property acquired in exchange for personal property and the property which is considered personal property by operation of law.

§ 3. No share in joint property may be disposed of or seized for as long as the joint property regime lasts.

[keywords: general joint property regime]

Article 39.

By operation of law, the spouses' personal property shall consist of:

- 1) items needed for work and items of personal use, such as clothing, underwear;
- 2) inalienable rights and rights which are strictly linked to the person of the spouse, such as copyrights held by the spouse as the author, inventor rights, claims for redressing personal damage suffered or compensation for moral damage.

[keywords: personal property]

Article 40.

Income from a spouse's personal property and income from their work shall constitute joint property unless the spouses have agreed otherwise in the matrimonial property contract.

[keywords: benefits from personal property]

Article 41.

In the event of any doubt, the property concerned shall be deemed as joint.

[keywords: presumption]

Article 42.

Each of the spouses may administer and dispose of their own personal property unless otherwise provided by this law.

[keywords: administration of personal property]

Article 43.

§ 1. Administration of the joint property shall belong to both spouses jointly.

§ 2. The matrimonial property contract may provide that administration may be exercised either by each of the spouses or one of them alone.

§ 3. Unless this law provides otherwise, the provisions of the joint ownership law shall apply accordingly to administration of joint property.

[keywords: administration of joint property]

Article 44.

§ 1. Without the other spouse's consent expressed in writing, failing which such a consent shall be null and void, a spouse who exercises administration alone may not:

- 1) dispose of or encumber real estate or mortgage claims;
- 2) dispose of or encumber profit-making enterprises;
- 3) take out loans or incur liabilities under bills of exchange;
- 4) make donations, except as regards donations that correspond to a moral obligation, decency or customs;
- 5) enter into life annuity contracts;
- 6) let out real estate under lease or tenancy agreements for a period longer than six years.

§ 2. Where absent, the other spouse's consent may be replaced by a court permit issued under the rules laid down in the provisions on the statutory regime, which shall also apply accordingly to the effects of a transactions carried out without the required consent of the spouse or court permit.

[keywords: acts requiring the consent of the spouse]

Article 45.

§ 1. At the request of one of the spouses, the court may deny the other spouse the administration of the joint property if the latter:

- 1) exercises the administration in a manner that is in conflict with the interests of the family or the spouse who has lodged the request;
- 2) is incapable of exercising the administration properly due to a physical or mental disability.

§ 2. If a spouse is denied the administration, the other spouse shall exercise the administration alone.

[keywords: withdrawal of administration of the joint property]

Article 46.

§ 1. A spouse shall be liable towards creditors from both their personal and joint property.

§ 2. However, a spouse shall be liable towards a creditor only from their personal property if:

- 1) they limited their liability solely to that property in the agreement with the creditor;
- 2) the liability incurred relates to their personal property;
- 3) the liability was incurred without the legally required consent of the other spouse or a court permit issues in lieu of it, unless the creditor acted in good faith on the basis that the consent was not required or that it was duly given.

[keywords: regime of joint property, liability for debts]

Article 47.

In settlements between the spouses, the personal property of a spouse shall be burdened by their liabilities incurred:

- 1) prior to the establishment of the joint property regime, unless they had been incurred in connection with the acquisition of a right that became part of the joint property;
- 2) through torts;
- 3) through legal transactions that involved the substance of the personal property;
- 4) due to damage caused by the spouse's action that exceeded beyond the ordinary administration of the joint property, or as a result of administering the joint property in a manner that was wasteful, negligent or aimed at harming the other spouse;
- 5) as a result of outstanding debts against the joint property.

[keywords: settlement, liability for debts]

Article 48.

If a spouse has used funds from their personal property to benefit the joint property or vice versa, the value of the funds used must be reimbursed from the enriched property. The resulting claim shall not be transferable and shall not pass on to the heirs.

[keywords: expenditure on joint property]

Article 49.

A spouse may not claim reimbursement from the other spouse's personal property to the joint property or vice versa if the debt concerned arose more than three years ago and was not documented in writing.

[keywords: term]

Article 50.

§ 1. Once the joint property regime is no longer applicable, the joint property that is left after deducting the related liabilities shall be pass on in half to each of the spouses or their heirs.

§ 2. The matrimonial property contract may provide that the division of the joint property shall be made in unequal parts.

[keywords: termination of joint property regime]

Article 51.

If the division of the joint property takes place prior to the satisfaction of the liabilities incumbent upon it, then each of the spouses shall be liable towards the creditors up to the amount the share received, unless they are otherwise liable to a greater extent.

[keywords: division of joint property, liability for debts]

Article 52.

The spouse who has concealed part of the joint property to be divided shall lose the right to their share of the concealed part.

[keywords: concealment of joint property]

**Chapter IV.
Joint acquired property regime.**

Article 53.

In the joint acquired property regime, each of the spouses shall retain their personal property and the acquired property shall be owned by both spouses jointly.

[keywords: joint acquired property regime]

Article 54.

The rules on the general joint property regime shall apply accordingly to the joint acquired property regime, with the exception, however, that in the absence of any provisions to the contrary, the composition of the acquired property and personal property shall be determined under the rules on the statutory regime.

[keywords: proper application]

**Section IV.
Enforced matrimonial property regime.**

Article 55.

By operation of law, spouses shall be subject to the property separation regime where one of the spouses has been legally incapacitated or been declared bankrupt. In such cases, the property separation regime shall apply from the date on which the incapacitation or bankruptcy proceedings are initiated.

[keywords: enforced regime, property]

Article 56.

At the request of one of the spouses, the court shall establish the property separation regime in place of the current regime where there is a reason to doubt that under the current regime the spouse concerned will not adequately respect the interests of the other spouse or the family.

[keywords: demand for property separation]

Section V.

Final provisions.

Article 57.

The implementation of this Decree shall be entrusted to the Minister of Justice.

[keywords: delegation]

Article 58.

This Decree shall enter into force on 1 October 1946.

[keywords: *vacatio legis*]

President of the State National Council:

Bolesław Bierut

Prime Minister:

Edward Osóbka-Morawski

Minister of Justice:

Henryk Świątkowski