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Cohabitation Act

Adopted on 09.10.2014

Chapter 1 Procedure for Concluding a Collective Agreement

Division 1 Conclusion of the Collective Agreement

§ 1. Prerequisites for conclusion of congress agreement

- (1) Two natural persons, of whom at least one is resident in Estonia, may enter into a collective agreement.
- (2) Adult persons with active legal capacity may enter into a collective agreement.
- (3) An adult with restricted active legal capacity may enter into a cohabitation contract only if he or she is sufficiently aware of the legal consequences of the cohabitation agreement. If a person has been appointed as a guardian, it is assumed that the person does not understand the legal consequences of the cohabitation agreement, unless otherwise provided by the guardianship regulation.
- (4) The promise to enter into a collective agreement does not provide a basis for the requirement to enter into a cohabitation agreement or a claim for compensation for damage if the promise is not fulfilled. An agreement that derogates from the first sentence of this paragraph is void.

§ 2. Circumstances precluding entry into a collective agreement

- (1) A collective agreement may not be entered into between persons at least one of whom is married at the time of the conclusion of the cohabitation agreement or who has a valid cohabitation agreement.
- (2) A cohabitation contract may not be entered into between a descendant and a descendant in a straight line.
- (3) A person may not enter into a cohabitation contract with his or her sister, brother, half-sister or stepbrother.
- (4) The provisions of subsections (2) and (3) of this section also apply if the relationship of persons is terminated as a result of the adoption of one person.
- (5) Persons whose relational relationship specified in subsections (2) and (3) of this section is based on adoption shall not enter into a cohabitation agreement.

§ 3. Procedure for conclusion of congress agreement

- (1) A collective agreement shall be entered into in a notarised form.
- (2) A collective agreement shall be entered into in person at the same time present. The declaration of intention to enter into a collective agreement may not be conditional.
- (3) A notary shall verify the preconditions for the conclusion of a cohabitation agreement. A notary may not perform an act if there is reason to assume that there is a ground for invalidation or nullity of the cohabitation agreement.
- (4) The data of a collective agreement shall be entered in the population register pursuant to the procedure provided for in the Family Status Acts Act and the choice of the property relationship of the parties shall be entered in the register of property registers pursuant to the procedure provided for in the Register of Property Ownership Act.

Section 2 Invalidity of the Collective Agreement

§ 4. Grounds for revocation of congress agreement

- (1) A cohabitation agreement is revoked if:
 - 1) The partnership agreement is violated by concluding the requirement of residence, or the age of majority in the capacity;
 - 2) there is a circumstance precluding the conclusion of a cohabitation contract provided for in subsections 2 (1) - (5) of this Act;
 - 3) the procedure provided for in subsection 3 (2) of this Act has been violated upon entering into a cohabitation contract;
 - 4) at least one person wishing to enter into a cohabitation contract had a temporary disorder of mental activity at the time of signing the cohabitation agreement or was otherwise incapable of decision;

5) the cohabitation agreement is concluded by the act of fraud, threat or violence, including concealment of a party's state of health or other personal circumstances, if this is important for the conclusion of the cohabitation agreement.

(2) It is not entitled to demand the annulment of the conclusion of a collective agreement if the party has concealed its financial situation.

§ 5. Grounds for refusal to revoke congress agreement

A meeting agreement is not invalidated if:

- 1) the residence requirement has been violated, but at the time of repealing the cohabitation agreement, the residence of at least one registered partner is in Estonia;
- 2) the age requirement has been violated, but the registered partner accepts the cohabitation agreement as an adult;
- 3) the claim for active legal capacity has been violated, but an adult registered partner whose active legal capacity was limited at the time of the conclusion of the cohabitation agreement approves the cohabitation agreement upon the restoration of active legal capacity;
- 4) the registered partner who entered into a cohabitation agreement in a state of culpability approves the cohabitation agreement after the resumption of the decision-making power.

§ 6. Consequences of repeal of congress agreement

(1) If a judgment declaring a cohabitation contract invalid, the cohabitation agreement shall be null and void from the beginning.

(2) In the case of nullity of a cohabitation contract, the cohabitation contract is also void, which the registered partner would not have expected if the cohabitation contract had not been concluded. Subject to relations between the parties, the provisions of the partnership shall apply to their property relations.

(3) If a cohabitation contract is annulled on the grounds that one of the registered partners concealed from another registered partner that he or she is already married or has entered into a cohabitation contract with another registered partner for fraud, threat or violence, the court may order him or her to have his / her survivor invalid. by applying the provisions of the Family Law on the maintenance of the divorced spouse.

Chapter 2 Legal Consequences of a Collective Agreement

Section 1 General legal consequences of a collective agreement

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

(1) By concluding a cohabitation agreement, the parties to the cohabitation agreement (hereinafter *registered partners*) undertake to mutually support and maintain each other. Registered partners have equal rights and obligations with each other. They co-operate together, bearing in mind each other's well-being and being responsible to each other for fulfilling their covenant obligations.

(2) A partnership registered abroad shall be deemed valid in Estonia pursuant to the provisions of the Private International Law Act.

§ 8. Collective agreement as a circumstance precluding marriage

(1) A person who has a cohabitation agreement in force at the time of the marriage may not enter into a marriage.

(2) Married marriage partners may enter into marriage, taking into account the provisions of this Act concerning the termination of a cohabitation agreement.

§ 9. Maintenance obligation of registered partners

(1) Registered partners are required to maintain a family with their work and assets.

(2) Maintenance includes the activities and property contributions necessary to meet the costs of a common household under the living conditions of the family and to meet the normal and special needs of the family.

(3) Upon the conclusion of a cohabitation agreement, registered partners may agree, among other things, that the maintenance shall be provided on a regular basis on the bases provided for in subsection (2) of this section even if the cohabitation agreement is terminated.

(4) Registered partners may agree in the cohabitation agreement on the manner and amount of maintenance to be provided in the event of legal separation or regular disbursement after the termination of the cohabitation agreement.

(5) Registered partners may agree in a cohabitation agreement that the provisions of subsection 5 (2) of the Family Law Act on the maintenance of a divorced spouse apply to the maintenance obligation upon termination of the cohabitation.

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

(1) A registered partner shall provide maintenance to a registered partner in need of assistance before his or her relatives. If a registered partner is unable to provide maintenance to a registered partner without prejudice to his or her other obligations and financial situation, the maintenance will be provided by the persons who are obliged to do so next.

(2) Subsection (1) of this section also applies to maintenance obligations of registered partners in which they have agreed pursuant to § 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 organization of cohabitation

(1) A transaction that a registered partner makes for the purpose of organizing cohabitation or to meet other normal family needs will result in a joint and several liability of registered partners if the scope of the transaction does not exceed a reasonable rate of living under the

registered partner's life.

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

(3) Registered partners may not deviate from the provisions of subsection (1) of this section by mutual agreement to the disadvantage of the creditor.

§ 12. Liability for obligations assumed by other registered partners

A registered partner is responsible for the performance of another registered partner's commitment to the extent that the registered partner may represent or oblige him to perform his duties.

§ 13. Scope of due diligence

Registered partners must, in fulfilling their obligations under the cohabitation agreement, show each other such care as they apply in their affairs.

§ 14. Family housing

Family dwelling is the dwelling where family members normally live.

§ 15. Right of access and right of adoption of registered partners

(1) A registered partner who is not the parent of a registered child of another registered partner has the right to communicate with the child of another registered partner pursuant to subsection 143 (4) of the Family Law Act.

(2) During the term of validity of a cohabitation agreement, the registered partner may adopt only the procedure provided for in Chapter 11, Part 2, of the Family Law of a registered partner.

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

- 1) a biological parent is another registered partner, or
- 2) the parent was another registered partner before the conclusion of the cohabitation agreement.

(4) During the term of validity of a cohabitation agreement, a registered partner may adopt a child or child of a third person whose parent was not another registered partner before the conclusion of the cohabitation agreement if the restrictions provided for in subsections (2) and (3) of this section were grossly unfair to registered partners.

Section 2

Proprietary relationships of registered partners

§ 16. Choice of proprietary relationship of registered partners

(1) Upon the conclusion of a cohabitation agreement, the registered partners shall, in accordance with the procedure provided for in the Family Status Acts Act, elect the proprietary relationship among the types of property relations specified in Section 2 of Chapter 4 of the Family Act. The provisions on types of early relationships apply without reference to the general legal consequences of the marriage provided for in Part 3, Chapter 3 of the Family Law Act.

(2) Registered partners may, by agreement with the cohabitation agreement, deviate from the property relationship, taking into account the provisions of the Family Law Act, Chapter 3, Section 3, concerning the marital property contract.

(3) Upon the conclusion of a collegiate agreement, the choice of the proprietary relationship shall be entered in the inventory register pursuant to the procedure provided for in the Register of Property Ownership Act.

Chapter

3 Termination of the Collective Agreement

Division 1

Procedure for Termination of Collective Agreement

§ 17. Bases for termination of covenant agreement

The agreement ends when the registered partner dies, the registered partners enter into a marriage or the cohabitation agreement is terminated.

§ 18. Entry of register entries in case of marriage to registered partners

If the cohabitation agreement ends because the registered partners enter into a marriage, the entry relating to the termination of the cohabitation agreement is entered into the population register pursuant to the procedure provided for in the Family Status Acts Act and the property register pursuant to the procedure provided for in the Register of Property Ownership Act.

§ 19. Termination of agreement on agreement by agreement

(1) A covenant agreement shall be terminated on the basis of notarised statements of registered partners.

(2) Upon termination of a congregation contract, an entry shall be made in the population register pursuant to the procedure provided for in the Family Status Acts Act and in the inventory register pursuant to the procedure provided for in the Register of Property Ownership Act.

§ 20. Time of termination of convention

The date of termination of the agreement is:

- 1) at the time of the death of the registered partner, the date of his or her death;
- 2) at the time of the marriage of the registered partners, the moment of the marriage;
- 3) in the event of termination of the cohabitation contract, the day on which the judgment becomes effective;
- 4) in the case of termination of the cohabitation contract with a notary, entry into force of the entry in the cohabitation agreement.

Section 2

Consequences of Termination of the Collective Agreement

§ 21. Termination of transactions related to congress agreement

Upon the termination of the covenant, the cohabitation agreement, which the registered partner would not have expected to make, would have ended if the cohabitation contract had not been concluded.

§ 22. Family housing and property related to housing upon termination of cohabitation contract

Upon the termination of the Collective Agreement, the provisions of §§ 68-70 of the Family Law Act apply to family housing and property related to housing.

§ 23. Right of access of registered partner to child of other registered partner after expiration of cohabitation agreement

A registered partner who is not the parent of the child of the other registered partner has the right to communicate with the other registered partner's child on the basis of subsection 143 (4) of the Family Law Act after the termination of the cohabitation agreement.

§ 24. Specifications of consequences of termination of cohabitation contract upon entering into marriage of registered partners

(1) The provisions of the Family Law Act concerning relations between spouses apply to relations between registered partners from the time of the marriage.

(2) Agreements and related transactions between registered partners shall terminate upon termination of the agreement unless otherwise agreed by the registered partners. The provisions of the Family Law Act on Divorce apply to the termination of agreements and related transactions.

(3) Registered partners may agree that the property relationship specified in subsection 16 (1) of this Act applies to the property relationship between them as of the date of the marriage.

(4) Registered partners may agree that the provisions of Chapter 4, Section 3 of the Family Law Act apply to divorce from the property relationship with the registered partners referred to in subsection 16 (2) of this Act concerning divorce.

(5) The provisions of law apply to the part in which the spouses cannot derogate from the provisions of the Family Law Act by agreement.

§ 25. Restoration of congress agreement

If the registered partner declared dead is alive, the cohabitation agreement shall be deemed to be reinstated if neither of the registered partners has in the meantime renegotiated or married. The agreement is deemed to be restored after the entry into force of the judgment declaring the deceased.

Chapter 4

Implementing provision

§ 26. Entry into force of Act

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

Eiki Nestor
President of the Riigikogu