

Übersetzung durch den Sprachendienst des Bundesministeriums der Justiz und für Verbraucherschutz.

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## **Act on Registered Life Partnerships**

Act on Registered Life Partnerships of 16 February 2001 (Federal Law Gazette I p. 266), last amended by Article 2 of the Act of 20 July 2017 (Federal Law Gazette I p. 2787)

This Act was adopted by the German Bundestag as Article 1 of the Act of 16 February 2001 I 266. It entered into force on 1 August 2001 pursuant to Article 5 of this Act.

The Act is compatible with the Basic Law pursuant to Federal Constitutional Court Decision of 17 July 2002 Federal Law Gazette I p. 3197 (1 BvF 1/01, 1 BvF 2/01).

### **Part 1**

#### **Entering into the life partnership**

##### **Section 1**

##### **Form and requirements**

(1) A life partnership shall be entered into by two persons of the same sex who, being present at the same time, declare in person to a registrar that they wish to maintain a partnership for life (life partners). These declarations may not be subject to any condition or stipulation of term.

(2) The registrar shall ask each of the life partners individually whether they wish to enter into a life partnership. If the life partners answer this question in the affirmative, the registrar shall declare that the life partnership is now established. The life partnership may be entered into in the presence of up to two witnesses.

(3) A life partnership cannot be entered into with effect

1. with a person who is a minor or is married to a third person or is already in a life partnership with another person;
2. between relatives in direct line;
3. between full and half-blood siblings;
4. if, upon entering into the life partnership, the life partners agree that they do not wish to establish the duties set out in section 2.

(4) No motion may be brought for the entering into of a life partnership on the basis of a promise to enter into a life partnership. Section 1297 (2) and sections 1298 to 1302 of the Civil Code shall apply mutatis mutandis.

### **Part 2**

#### **Effects of the life partnership**

## **Section 2**

### **Community of the life partners**

The life partners shall have a duty to care for and support one another and to shape their lives together. They shall be responsible for one another.

## **Section 3**

### **Life-partnership name**

(1) The life partners may designate a common surname (life-partnership name). By declaration to the registry office the life partners may choose as their life-partnership name the birth name of one of the life partners or the name held by one of the life partners at the time of the declaration on the determination of the life-partnership name. The declaration on the determination of the life-partnership name shall be made at the same time as the life partnership is entered into. If the declaration is made later, it must be publicly authenticated.

(2) A life partner whose name does not become the life-partnership name may, by declaration to the registry office, attach before or after the life-partnership name his birth name or the name he holds at the time of the declaration on the determination of the life-partnership name. This shall not apply if the life-partnership name consists of more than one name. If the name of one of the life partners consists of more than one name, only one of these names may be attached. The declaration may be revoked at the registry office; in this case a new declaration pursuant to the first sentence shall not be permissible. The declaration, if it is not made to a German registry office at the time the life partnership is entered into, and the revocation must be publicly authenticated.

(3) A life partner shall retain the life-partnership name also after the ending of the life partnership. He may, by declaration to the registry office, reassume his birth name or the name that he held up until the determination of the life-partnership name, or attach his birth name or the name that he held up until the determination of the life-partnership name before or after the life-partnership name. Subsection (2) shall apply mutatis mutandis.

(4) The birth name is the name that is to be entered on the birth certificate of a life partner at the time of the declaration to the registry office.

(5) (deleted)

## **Section 4**

### **Scope of the duty to exhibit due diligence**

The life partners, in performance of the duties that arise from their relationship as life partners, shall be answerable to one another only for the diligence that they ordinarily exhibit in their own affairs.

## **Section 5**

### **Duty of life-partner maintenance**

The life partners shall have the mutual duty to maintain appropriately through their work and with their assets the community established upon conclusion of the life partnership.

Section 1360, second sentence, sections 1360a, 1360b and 1609 of the Civil Code shall apply mutatis mutandis.

## **Section 6**

### **Property regime**

The life partners shall live under the property regime of the community of accrued gains unless they agree otherwise in a life-partnership contract (section 7). Section 1363 (2) and sections 1364 to 1390 of the Civil Code shall apply mutatis mutandis.

## **Section 7**

### **Life-partnership contract**

The life partners may regulate their property relations by contract (life-partnership contract). Sections 1409 to 1563 of the Civil Code shall apply mutatis mutandis.

## **Section 8**

### **Other effects in property law**

(1) It shall be assumed in favour of the creditor of one of the life partners that the movable property in the possession of one or both of the life partners belongs to the debtor. Sections 1362 (1), second and third sentences, and subsection (2) of the Civil Code shall otherwise apply mutatis mutandis.

(2) Section 1357 of the Civil Code shall apply mutatis mutandis.

## **Section 9**

### **Stipulations in respect of children of a life partner**

(1) If a parent in a life partnership has sole custody over a child, his life partner in agreement with the parent exercising custody shall have the power of codecision in matters relating to the everyday life of the child. Section 1629 (2), first sentence, of the Civil Code, shall apply mutatis mutandis.

(2) In exigent circumstances, the life partner shall be entitled to undertake all legal actions that are necessary in order to protect the child's best interests; the parent exercising custody shall be informed without delay.

(3) The family court may restrict or withdraw the powers pursuant to subsection (1) if such measure is necessary in order to protect the child's best interests.

(4) The powers pursuant to subsection (1) shall not apply if the life partners live apart for a period that is not merely temporary.

(5) If a parent is entitled to sole parental custody or joint custody with the other parent of an unmarried child, he and his life partner may, by declaration to the registry office, give the child, whom they have taken into their shared household, their life-partnership name.

Section 1618 (2) to (6) of the Civil Code shall apply mutatis mutandis.

(6) If a life partner adopts a child on his own, the consent of the other life partner shall be required. Section 1749 (1), second and third sentences, and subsection (2) of the Civil Code shall apply mutatis mutandis.

(7) A life partner may adopt the child of his life partner alone. In this case, sections 1742, 1743, first sentence, section 1751 (2) and (4), second sentence, section 1754 (1) and (3), section 1755 (2), section 1756 (2), section 1757 (2), first sentence, and section 1772 (1), first sentence, letter c of the Civil Code shall apply mutatis mutandis.

## **Section 10**

### **Law of succession**

(1) The surviving life partner of the deceased shall be statutory heir to one quarter of the estate together with relatives of the first degree, and to one half of the estate together with relatives of the second degree or together with grandparents. If grandparents and descendants of grandparents are alive, the life partner shall also receive from the other half the share that under section 1926 of the Civil Code would pass to the descendants. In addition, the life partner shall have the right to the objects belonging to the life partners' household, to the extent that these do not constitute corporeal fixtures annexed to a plot of land, and to the presents received upon establishment of the life partnership, as a preferential benefit. If the surviving life partner is statutory heir together with relatives of the first degree, the spouse shall have the right to this preferential benefit only to the extent that he needs it to maintain a reasonable household. The preferential benefit shall be governed by the provisions that are applicable to legacies. If the surviving life partner is one of the relatives entitled to inherit, he shall inherit as a relative at the same time. The share of the estate that passes to him on the grounds of his being a relative shall be deemed to constitute a separate share of the estate.

(2) If there are relatives neither of the first nor of the second degree nor grandparents living, the surviving life partner shall receive the whole estate. If at the time of the devolution of the estate there was separation of property and if one or two children of the deceased are entitled as statutory heirs together with the surviving life partner, the surviving life partner

and each child shall inherit in equal shares; section 1924 (3) of the Civil Code shall apply also in this case.

(3) The right of succession of the surviving life partner shall be excluded if at the time of the death of the deceased

1. the requirements for the dissolution of the life partnership pursuant to section 15 (2) no. 1 or 2 were satisfied and the deceased had petitioned for or consented to this dissolution, or

2. the deceased had filed a petition pursuant to section 15 (2) no. 3 and this petition was well founded.

In these cases section 16 shall apply mutatis mutandis.

(4) Life partners may make a joint will. Sections 2266 to 2272 of the Civil Code shall apply mutatis mutandis.

(5) Section 2077 of the Civil Code shall apply mutatis mutandis to a testamentary disposition in which the deceased has made provision for his life partner.

(6) If the deceased has excluded the surviving life partner from succession by disposition in contemplation of death, the latter may demand as his compulsory share half of the value of his statutory share from the heirs. The provisions of the Civil Code governing the compulsory share shall apply mutatis mutandis, whereby the life partner shall be treated as a spouse.

(7) The provisions of the Civil Code on the inventory for an inheritance that is part of marital property and on the renunciation of inheritance shall apply mutatis mutandis.

### **Section 11**

#### **Other effects of the life partnership**

(1) A life partner shall be considered a member of the family of the other life partner, unless otherwise provided.

(2) The blood relatives of a life partner shall be considered related to the other life partner by life partnership. The line and the degree of the relationship by life partnership shall be determined by the line and the degree of the intermediate relationship by blood. Relationship by life partnership shall continue even if the life partnership by which it was created has been dissolved.

### **Part 3**

#### **Living apart of the life partners**

### **Section 12**

#### **Maintenance when life partners are living apart**

If the life partners are living apart, one life partner may demand from the other the maintenance that is appropriate in accordance with the life partners' standard of living and circumstances in terms of earnings and assets. Sections 1361 and 1609 of the Civil Code shall apply mutatis mutandis.

### **Section 13**

#### **Allocation of household objects when life partners are living apart**

(1) If the life partners are living apart, either of them may demand that the other life partner surrender any of the household objects that belong to him. However, he has a duty to permit the other life partner to continue to use these objects to the extent that the other life partner needs them in order to maintain a separate household and the permission of use is equitable in the circumstances of the case.

(2) Household objects which belong to the life partners jointly are allocated between them in accordance with the principles of equity. The court may determine a reasonable payment for the use of the household objects.

(3) Property relations shall remain unaffected unless the life partners agree otherwise.

## **Section 14**

### **Allocation of the home when life partners are living apart**

(1) If the life partners are living apart or if one of them wishes to live apart, one life partner may demand that the other permit him sole use of the shared home or part of the shared home, to the extent that this is necessary, while also taking account of the concerns of the other life partner, in order to avoid undue hardship. Undue hardship may also exist if the best interests of any children living in the household are adversely affected. If one life partner is entitled alone or together with a third party to the ownership of or a heritable building right or usufruct in the plot of land on which the shared home is situated, special account must be taken of this; similar provisions shall apply to home ownership, a dwelling entitlement sine die, or a dwelling entitlement in rem.

(2) If the life partner against whom the petition is directed has unlawfully and intentionally injured the body, health or liberty of the other life partner or has unlawfully threatened such an injury or injury to life, then, as a general rule, the whole home shall be surrendered for sole use. The right to surrender of the home shall be excluded only if no further injuries and unlawful threats are to be feared, unless the injured life partner cannot be expected to continue to live together with the other by reason of the severity of the act.

(3) If the shared home has been surrendered in whole or in part to one life partner, the other life partner must refrain from everything that is suitable to render more difficult or defeat the exercise of this right of use. The other life partner may demand payment for the use from the life partner with the right of use, insofar as this is equitable.

(4) If a life partner moves out of the shared home in order to live apart, and if within six months after moving out he has not notified the other life partner of a serious intention to return, it shall be irrebuttably presumed that he has permitted the life partner who remained in the shared home the sole right of use.

## **Part 4**

### **Dissolution of the life partnership**

## **Section 15**

### **Dissolution of the life partnership**

(1) The life partnership may be dissolved by judicial decision upon the petition of one or both of the life partners.

(2) The court shall dissolve the life partnership if

1. the life partners have lived apart for a year and
  - a) both life partners petition for the dissolution or the respondent consents to the dissolution or
  - b) it cannot be expected that the community of the life partners can be restored,
2. one of the life partners petitions for the dissolution and the life partners have lived apart for three years,
3. the continuation of the life partnership would be an unreasonable hardship for the petitioner for reasons that lie in the person of the other life partner.

Furthermore, the court shall dissolve the life partnership if one of the life partners lacked free will within the meaning of section 1314 (2) nos. 1 to 4 of the Civil Code; section 1316 (1) no. 2 of the Civil Code shall apply mutatis mutandis.

(3) The life partnership shall not be dissolved pursuant to subsection (2), first sentence, despite the fact that the life partners have lived apart for more than three years, if and for as long as dissolution of the life partnership, on the grounds of extraordinary circumstances, would represent such severe hardship for the respondent who rejects the dissolution that, exceptionally, it seems advisable, while also taking account of the concerns of the other life partner, to maintain the life partnership.

(4) The annulment pursuant to subsection (2), second sentence, shall not be possible upon confirmation of the life partnership; sections 1315 (1), first sentence, nos. 3 and 4 and section 1317 of the Civil Code shall apply mutatis mutandis.

(5) The life partners shall be deemed to be living apart if there is no domestic community between them and one of the life partners recognisably does not intend to create this community because he rejects the community established between the life partners through conclusion of the life partnership. Section 1567 (1), second sentence, and subsection (2) of the Civil Code shall apply mutatis mutandis.

#### **Section 16**

##### **Post-partnership maintenance**

After dissolution of the life partnership, each life partner shall be responsible for providing for his own maintenance. If he is not in a position to do this, he shall have a claim for maintenance against the other life partner only pursuant to sections 1570 to 1586b and 1609 of the Civil Code.

#### **Section 17**

##### **Treatment of the shared home and household objects on the occasion of dissolution of the life partnership**

Sections 1568a and 1568b of the Civil Code shall apply mutatis mutandis to the treatment of the shared home and the household objects on the occasion of dissolution of the life partnership.

#### **Section 18**

**(deleted)**

#### **Section 19**

**(deleted)**

#### **Section 20**

##### **Equalisation of pension rights**

(1) If a life partnership is dissolved, an equalisation shall take place of rights existing in Germany or elsewhere (section 2 (1) of the Act on the Equalisation of Pension Rights, [Versorgungsausgleichgesetz]) in mutatis mutandis application of the Act on the Equalisation of Pension Rights to the extent that these were founded or maintained in the period during which the life partnership existed.

(2) The period during which the life partnership existed shall run from the beginning of the month in which the life partnership was entered into up until the end of the month prior to that in which the petition for dissolution of the life partnership becomes pending.

(3) If the life partners conclude agreements on the equalisation of pension rights in a life-partnership contract (section 7), sections 6 to 8 of the Act on the Equalisation of Pension Rights shall apply mutatis mutandis.

Subsections (1) to (3) shall not be applicable if the life partnership was concluded prior to 1 January 2005 and the life partners have not issued declarations pursuant to section 21 (4).

#### **Part 5**

##### **Conversion of a life partnership into marriage**

#### **Section 20a**

A life partnership shall be converted into marriage where two life partners, being present at the same time, declare mutually and in person that they wish to maintain a marriage for life. These declarations may not be subject to any condition or stipulation of term. The declarations shall become effective when they are made before a registrar.

#### **Part 6**

##### **Transitional provisions**

**Section 21  
(deleted)**

**Section 22  
Transfer of matters**

The offices that were responsible for the conclusion of life partnerships pursuant to Land law prior to the entering into force of this Act shall transfer all matters initiated at these offices in respect of all life partnerships to the registry office that would have been responsible pursuant to section 17 of the Civil Status Act [Personenstandsgesetz, PStG] for receiving the declarations of the life partners. If, according to section 17 of the Civil Status Act, several registry offices are responsible, the documents shall be transferred to the registry office in the district of which both life partners have their domicile or habitual residence; if the life partners do not share a domicile or habitual residence, the registry office in the district of which one of the life partners has his domicile or habitual residence shall be responsible. If, also pursuant to the second sentence above, several offices are still responsible, the authority that is transferring the matter shall be free to choose from the responsible registry offices. The registrar of the registry office that is responsible pursuant to the above criteria shall enter the information specified in section 17 in conjunction with sections 15 and 16 of the Civil Status Act into a separate register of life partnerships, accompanied by a reference to the authority at which the life partnership was entered into.

**Part 7  
Laender enabling clause**

**Section 23  
Derogating responsibilities pursuant to Land law**

The Laender may stipulate, in derogation from sections 1, 3 and 9, that the relevant declarations are to be made not to a registrar but to another registry clerk or to another authority; existing provisions of Land law shall remain unaffected. The Civil Status Act shall be applicable insofar as it governs giving notice of and entering into the life partnership (section 17 in conjunction with sections 12 to 15 of the Civil Status Act). The responsible authorities shall be obligated to communicate to the responsible registry office the information required for making an entry in the register of life partnerships. They shall also have the power to transfer personal data ex officio to public offices of the Federation, Laender and local authorities where these offices require this data within the scope of their functions in order to supplement, correct and maintain documents.