

NORDIC COHABITATION LAW

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PREFACE

Cohabitation is now widely and socially accepted in the Nordic countries. Legal distinctions between spouses and cohabitants are less and less frequent. This development has probably enticed some cohabitants to believe that they have a legal protection in a similar way as spouses – but they don't. With the exception of Sweden, and to a certain extent Finland, the regulation of cohabitation in the Nordic countries is characterised by non-statutory law and discretionary compensation rules. Litigation in the wake of dissolved cohabitation testifies to a complex and often unclear legal situation, where some cohabitants risk leaving a long-term relationship empty-handed.

This book gives an account of the rules on cohabitation in all five Nordic countries. It describes *inter alia* the regulation concerning property law during cohabitation and on the financial settlement after the dissolution of cohabitation as well as the main features of inheritance law and child rights legislation for cohabitants. The legal developments towards the current state of the law are also described. Against this background the question is raised whether the current rules in the Nordic countries are capable of solving the problems that arise in this legal context. In a final chapter the book includes suggestions for legal principles for the regulation of cohabitation.

The aim of the book is twofold. It gives an overall legal representation of the rules of cohabitation which can be useful both for lawyers, judges and other legal practitioners. But the discussion of legal policy and suggestions for solutions could be of interest for politicians and lawmakers interested in the Nordic region. Since legal culture and demographics are fairly uniform in the Nordic countries, it is possible to draw fruitful parallels between countries – in this field of law the Nordic countries can learn from each other, but others can also learn from us. The Nordic countries could actually be seen as a test case for different approaches to regulation of cohabitation.

The book is written by a group of Nordic professors including John Asland, University of Oslo; Margareta Brattström, Uppsala University; Göran Lind, Örebro University; Ingrid Lund-Andersen, University of Copenhagen; Anna Singer, Uppsala University; and Tone Sverdrup, University of Oslo. Professor Urpo Kangas, University of Helsinki and Professor Hrefna Friðriksdóttir, University of Iceland have made important contributions to the description of, respectively, Finnish and Icelandic law. Judge and adjunct professor Svend

Danielsen, Copenhagen, has read and commented the Danish sections. We are very grateful for the help we have received from our Nordic colleagues.

The various chapters of the book have an individual author, but contributions have been written in close cooperation and we all stand behind the concluding principles for the regulation of cohabitation. The book was previously published in the Scandinavian languages by Gyldendal Forlag in 2014. In the present work material available in March 2015 has been considered. Material available after that time has only rarely been taken into account.

Copenhagen, Oslo and Uppsala
June 2015

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LIST OF ABBREVIATIONS

Dk	Danmark (<i>Denmark</i>)
El	Ekteskapsloven, lov om ekteskap av 4. juli 1991 nr. 47 (Norge) (<i>Marriage Act, Norway</i>)
FAB	Tidsskrift for familierett, arverett og barnevernrettslige spørsmål (<i>Journal of Family Law, Inheritance and Child Law Issues, Norway</i>)
Fi	Finland
HD	Högsta domstolen (<i>Swedish Supreme Court</i>)
HD	Högsta domstolen (<i>Finnish Supreme Court</i>)
Hrd and HrD	Høyesterettsdom, (<i>Supreme Court Judgment, Iceland</i>)
Int.J.L. Pol. and Fam.	<i>International Journal on Politics and the Family</i>
Is	Island (<i>Iceland</i>)
J. Mar. & Fam.	<i>Journal of Marriage and Family</i>
JB	Jordabalk (1970:994) (<i>Land Code, Sweden</i>)
JP	Juridisk Publikation (<i>Legal Publikation, Sweden</i>)
JT	Juridisk Tidskrift (<i>Legal Journal, Sweden</i>)
LoR	Lov og Rett (<i>Norwegian Law</i>)
NJA	Nytt Juridisk Arkiv (<i>Periodical containing the cases reported from the Swedish Supreme Court</i>)
NJA II	Nytt Juridisk Arkiv (<i>Periodical containing summaries of travaux préparatoires in Sweden</i>)
No	Norge (<i>Norway</i>)
NOU	Norges offentlige utredninger (<i>Government Committee Reports, Norway</i>)
Ot.prp.	Odelstingproposisjon (<i>Legislative Bill to the Odelsting, one of the two chambers of the Norwegian Parliament</i>)
p.	page*
Prop.	Proposition/Proposisjon (<i>Legislative Bill, Sweden, Norway</i>)
RH	Hovrätterna (<i>Cases from the Courts of Appeal, Sweden</i>)
RP	Regeringsproposition (<i>Legislative bill, Finland</i>)

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Rt.	Norsk Retstidende (<i>Periodical containing the cases reported from the Norwegian Supreme Court</i>)
RVL	Retsvirkningsloven, Lovbekendtgørelse nr. 37 af 5. januar 1995 om ægteskabets retsvirkninger (Danmark) (<i>Legal Effects of Marriage Act, Denmark</i>)
Sc.St.L.	<i>Scandinavian Studies in Law</i>
SCB	Statistiska centralbyrån (<i>Statistics Sweden</i>)
SOU	Statens offentliga utredningar (<i>Swedish Government Official Reports</i>)
SSB	Statistisk centralbyrå (<i>Statistics Norway</i>)
St.meld.	Stortingsmelding (<i>White Paper, orientations of the Parliament by the Government, Norway</i>)
Sv	Sverige (<i>Sweden</i>)
TFA:	Tidsskrift for Familie- og Arveret (<i>Journal of Family Law and Succession Law, Denmark</i>)
TFR	Tidsskrift for Rettsvitenskap (<i>Journal of Jurisprudence, Norway</i>)
U	Ugeskrift for Retsvæsen (<i>Weekly Law Journal, Denmark</i>)
UB	Utsökningsbalk (15.6.2007/705) and Utsökningsbalk (1981:774) (<i>Enforcement Proceedings Act, Finland and Sweden</i>)
ÄktB	Äktenskapsbalk (1987:230) (<i>Marriage Code, Sweden</i>)
ÆL	Ægteskabsloven, Lovbekendtgørelse nr. 147 af 9. marts 1999 om ægteskabs indgåelse og opløsning (<i>Marriage Act, Denmark</i>)
ÄL	Äktenskapslag (13.6.1929/234) (<i>Marriage Act, Finland</i>)