

QUESTIONS OF CONCLUDING A MARRIAGE CONTRACT

According to the latest statistics, 40 percent of marriages end in divorce in Kazakhstan. Sadly, the fact remains that our state is the leader in the number of divorces among the CIS (Commonwealth of Independent States) countries.

For many, the process of divorce is unpleasant and painful morally. In addition to psychological stress, material issues also arise, such as the division of property. In order to protect their property interests and reduce the risks of unfair division of property, concluding a marriage contract should be considered.

A prenuptial agreement or a marriage contract is not popular for the protection of property interests in Kazakhstan, however, with an increase in legal literacy among the population, the importance of a marriage contract grows. In this article, we will talk about what a marriage contract is, what it is for, what conditions can be written in it, where to go and what documents may be required.

What is a marriage contract?

A marriage contract is an agreement between the persons entering into marriage, or an agreement between the spouses, which determines the property rights and obligations of the spouses in the marriage and in the event of its dissolution. Simply said, it is a document that clearly establishes what property a husband and wife will own during marriage, both common and personal, and what - in case of divorce.

When can you sign a marriage contract?

A marriage contract can be concluded both from the day of filing an application for registration of marriage and before the marriage, and at any time during the marriage. This means that a marriage contract can be concluded regardless of whether the couple is married or not, but with one caveat that when a person enters into a marriage contract before marriage, the marriage contract will enter into force only after the marriage registration is completed.



What can be specified in a marriage contract?

By a marriage contract, spouses have the right to change the regime of common joint property established by the laws of Kazakhstan, establish a regime of joint, shared or separate ownership of all property of the spouses, its individual types or the property of each of the spouses. Thus, a marriage contract concerns only property, joint or personal, present or future, as well as transactions with it.

The division of property in the event of divorce, despite the widespread misconception, is less often the main reason for concluding a marriage contract, since the subject of a marriage contract can be a wide range of property situations. The spouses can set any conditions regarding the ownership, use and disposal of various assets.

Spouses have the right to establish a regime of common joint, shared or separate ownership for their property or combine them in relation to certain types of property. The property not mentioned in the contract is subject to the generally established regime established by law.

It should be borne in mind that the rights and obligations provided for by a marriage contract may be limited to certain periods or be made dependent on the occurrence or non-occurrence of certain conditions. For example, a child, after a divorce of his parents, can receive rights to real estate only upon reaching the age of 18, if this was specified in the contract or other conditions at the discretion of the spouses.

Since the marriage contract concerns and is concluded for the regulation of property interests, it is accordingly impossible to indicate certain conditions of a different nature in it. For example, with the help of a marriage contract, spouses will not be able to establish the rules for doing household chores, behavior with children in marriage and in case of divorce.

Where to go and what is needed to conclude a marriage contract?

We do not recommend using ready-made templates offered on the Internet or by notaries. In order to conclude a marriage contract, it is recommended to contact a lawyer with experience and knowledge to assist in the preparation and conclusion of a marriage contract.

The preparation time and complexity of the marriage contract depends on the wishes of the spouses under the terms of the marriage contract, as well as the amount of property owned by the spouses.

In what cases can a marriage contract be terminated?

The parties to the marriage contract have the right to change or terminate it at any time by joint agreement.

At the same time, unilateral refusal to fulfill the marriage contract is not allowed, its conditions are binding. You can also terminate or change the marriage contract on the basis of a court decision, in cases provided by law.

The effect of a marriage contract is terminated from the moment of dissolution of the marriage, with the exception of those obligations which, by virtue of the conditions of the marriage contract, remain valid.

It should be noted that in cases where a marriage is invalidated, the legal regime of property will be governed by the norms of civil law. In this case, the marriage contract concluded by the spouses is invalidated.



If you have any questions regarding the above issues, please contact. We will be glad to help you.



**Regards,
Director
Dairbekov Rauan**

Redbrick Law Firm
www.redbrick.kz
Contacts
r.dairbekov@redbrick.kz
T: 8775 7243986



**Dairbekova Ainur
Counsel**