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## New Matrimonial Law:

## Husband and wife: the same rights

Its opponents described the new matrimonial law as «inappropriate legislation», while for those in favour it was a matter of «embodying equality in the law as well». On 22nd September 1985 the people decided: the matrimonial law of 1907 will be replaced by a new one, which is expected to come into force on 1st January 1988.

The married couple will undertake to safeguard the wellbeing of the union by harmonious cooperation and to provide together for the care and upbringing of the children. That is the guiding principle of both the old and the new law. On the other hand, the sentence stating that the husband is the head of the conjugal union will be dropped and neither partner will have particular authority with regard to decision-making. No longer will the husband have the sole right to choose the family's place of abode, as at present, but the partners will be able to decide on this together. Thus, the duty to cooperate harmoniously becomes the supreme and all-embracing rule for married couples.

### Free choice of roles

The old law lays down the various roles in the family. Thus, the husband is to maintain the wife and children, while the wife is to assist him in word and deed and manage the household affairs. Thus state interference is unnecessary. Under the new law husband and wife agree between

themselves on the contribution to be made by each of them in the way of finance, housework, looking after the children or helping in a profession or business. The important thing is that each is to care for the family according to his/her abilities. If the wife looks after the household and the children, then the husband remains responsible for the finances.

Whichever partner looks after the house and children often gives up the opportunity of paid employment and thus of having money of his/her own. It is therefore only fair that the partner who stays at home should receive from the other a sum of money which he/she can dispose of freely. The new law grants this right if the family circumstances permit. It also grants appropriate compensation to one marriage partner who, by collaborating in the other's profession or business, makes a substantially larger contribution to the maintenance of the family than would normally be expected of him/her.

As before, the family will bear the husband's surname. So there will

be no change here for the children. However, the wife who so wishes can keep her previous surname, prefixed to that of the family. The wife and children will continue to acquire citizenship of the man's place of origin but the wife will no longer lose her former citizenship.

### Matrimonial property: equal rights

The matrimonial property system regulates the important question of who owns what in a marriage. At present the following rule normally applies: the husband independently administers, and has the user of, not only his own property but also the savings his wife accumulated before marrying and everything she inherits or is given. The wife, however, can only freely dispose, during the marriage, of anything she may earn. That is unjust. Under the new law the wife will be allowed to administer and have the user of her own property. However, either partner will be able to transfer the administration of his/her property to the other. If the marriage is dis-



solved, the wife is at present entitled to only a third of what the couple has saved during the marriage («Vorschlag»/«bénéfice»), but she can keep anything she may have earned, which is to her husband's disadvantage. In future, each partner will receive half of what the other has saved during the marriage. As at present, neither property owned before the marriage nor inherited property will be shared. However, the new rules will apply only if the partners have not covenanted otherwise. They are free to do this at any time. The approval of the guardianship authority and the publication of the covenant will no longer be required.

### **What is the position of couples married under the old law?**

Couples who married under the old law and who have concluded a marriage covenant will automatically remain subject to the old matrimonial property system. The new law will apply, however, to couples who have not made a marriage covenant (that is to say, most Swiss couples) unless they make a joint declaration that they wish to remain subject to the old system. Freedom will thus be safeguarded.

The new law will also improve the position of the surviving partner: he/she will receive half the estate, the other half passing to the children. Hitherto, the children have been better off. Under the new law the partners will in principle be able to provide that all their joint savings go to the surviving partner. The portion of the estate of which the surviving partner cannot be deprived by will remains one quarter (obligatory portion). Anyone not satisfied with the new provisions will be able to dispose freely of the remainder in a will.

*Federal Department of Foreign Affairs / Service of the Swiss Abroad*

### **Swiss Nationality Act: Tougher Provisions concerning the Loss of Swiss Nationality**

#### **If you have not applied...**

From the beginning of July every child of a Swiss woman (except children of women who became Swiss by marriage) automatically acquires Swiss nationality at birth, irrespective of where the parents are living at the time. Children born on or after 1st January 1953 may apply for recognition as Swiss citizens until 30th June 1988. However, this revision means not only that the law has been liberalized but that, in one respect, it has become

tougher. All Swiss born abroad who possess another nationality as well, including those with Swiss fathers, should therefore note that they will lose their Swiss nationality if, by their 22nd birthday, they have not registered or been registered with a Swiss authority at home or abroad or declared in writing that they wish to keep their Swiss nationality.

*Warning:* Swiss over the age of 22 who were born abroad and who possess another nationality as well will lose their Swiss nationality if they have not been registered with a Swiss authority at home or abroad by 30th June 1988.

*Federal Department of Justice and Police*

*Federal Office for Police Matters*

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### **New Swiss Citizens:**

#### **Have you made provision for your old age?**

Swiss men and women abroad who acquired their Swiss nationality through an official decision can join the voluntary Old Age and Survivors' Insurance/Disability Insurance scheme (OAI/DI) for Swiss abroad.

Applications can be submitted up to one year, at the latest, after the applicant's 50th birthday. After

that date it will only be possible to join if the application is made within a year from the date of the decision to grant Swiss nationality. Swiss minors are only recommended to join after their 18th birthday.

Applications, on a special form, in duplicate, should be sent to the Swiss embassy or consulate with which the applicant is registered. Further information and the necessary forms can be obtained, free of charge, from that embassy or consulate.

*Swiss Compensation Fund*

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### **Results of the Federal Ballot of 22nd September 1985**

The new matrimonial and inheritance law was approved, with 54,7% of the votes in favour (see article on page 9).

The harmonization of the beginning of the school year in the period mid-August to mid-September was also approved. This is an important turning-point in the

coordination of the school system.

On the other hand, the draft law on the risk guarantee for setting up small and medium-sized businesses, which would have required the state to support research and development in respect of technologically advanced products, was rejected.

*Federal Department of Foreign Affairs / Service of the Swiss Abroad*

