

Splitting up and legal family formats in Iceland

by Hrefna Friðriksdóttir ¹

The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples

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Based on the [LawsAndFamilies questionnaire](#) on legal family formats for same-sex and/or different-sex couples (Section 5 – Splitting up)

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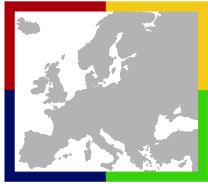
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Disclaimer

This paper and this database contain information with a scientific aim. Nothing in this paper and in this database should be seen as legal advice. Not all nuances and exceptions are included, and there may be errors and further legal developments. The experts, the authors, the editors, the Institut national d'études démographiques and Leiden University cannot be held liable for any inaccurate or incomplete information in this paper or in this database. More particularly, they cannot be held liable for any damage or consequences from the direct or indirect use of contents of this paper or database.

The six sections of the questionnaire

The [interactive LawsAndFamilies Database](#) is based on the [LawsAndFamilies questionnaire](#), which consists of six sections:

- Section 1 – Formalisation
- Section 2 – Income and troubles
- Section 3 – Parenting
- Section 4 – Migration
- Section 5 – Splitting up
- Section 6 – Death

Papers and an interactive database

For each jurisdiction there are therefore six papers like this one. And each of these papers contains the full answers, references and explanations (given by

a legal expert for the jurisdiction concerned) to the questions in one of these six sections. All these papers can be found in open access at www.LawsAndFamilies.eu. There the user also has access to the [interactive part of the LawsAndFamilies Database](#), which can be used to search the whole database and to create comparative overviews for different questions, different years, different countries and/or different legal family formats.

This website also contains references to publications analysing the results of the project, and to some other legal, sociological and statistical publications about same-sex and different-sex families. And it gives information about the methodology used for this questionnaire and database.

About the questionnaire

The [full text of the questionnaire](#) can be found in the paper:

K. Waaldijk, J.M. Lorenzo Villaverde, N. Nikolina & G. Zago, 'The LawsAndFamilies questionnaire on legal family formats for same-sex and/or different-sex couples: Text of the questions and of the accompanying guidance document', *FamiliesAndSocieties Working Paper* 64(2016), www.familiesandsocieties.eu.

The [Guidance document](#) contained in that paper, asked the experts answering the questionnaire to make several assumptions. These included the assumption that the partners have been living together as a couple already for at least two years. Plus the assumption (except for certain questions in Section 4 – Migration) that both partners have the citizenship of the country where they are now both lawfully and habitually residing, and that this is also the country where their relationship would have been formalised and where it would be dissolved.

About the answers

This paper contains the answers, references and explanations – for one jurisdiction – to all questions in one of the six sections of the questionnaire. The answers are presented in columns. Each column is a coloured timeline, representing legal developments for one question for one legal family format.

The year at the top of each coloured timeline is the most recent year for which a question was answered by the author. In the timelines the years given above and below an answer indicate that the answer applied between a certain day in the lower year and a certain day in the higher year. The year "0000" means that the answer applied since an unknown year before 1965. See further the [Guidance document](#).

The following **answer codes and colours** have been used:

Yes	Yes, this is so in the law of this country/jurisdiction, although possibly with a qualifying period of 24 months or less.
Yes, but	Yes, but with exceptions or restrictions, for example a qualifying period of 25 months or more, or only in most parts of the country/jurisdiction, or this is mostly a “dead letter”.
No, but	No, but it may be so exceptionally, or in a very limited way, or in a few parts of the country/jurisdiction, or indirectly, or by using a different legal instrument, or legislation says no while some courts might say yes.
No	No, this is not so in the law of this country/jurisdiction.
Doubt	The law is unclear (the law does not “know” the answer).
?	No information was available.
N/A	Not applicable (for example because this family format is not available in this jurisdiction, or not for same-sex or different-sex couples).
X	This question was not asked for this legal family format.
Open question	Question without answer codes like Yes and No.
Empty cell	For this year the question was not asked or not answered.

The six papers about Iceland

The answers concerning Iceland can be found in the [interactive database](#) and in the following six papers (all of which are published in open access in: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*, Paris: INED, 2017, www.LawsAndFamilies.eu):

Formalisation of legal family formats in Iceland by Hrefna Friðriksdóttir (Section 1)

Income, troubles and legal family formats in Iceland by Hrefna Friðriksdóttir (Section 2)

Parenting and legal family formats in Iceland by Hrefna Friðriksdóttir (Section 3)

Migration and legal family formats in Iceland by Erna Kristín Blöndal (Section 4)

Splitting up and legal family formats in Iceland by Hrefna Friðriksdóttir (Section 5)

Death and legal family formats in Iceland by Hrefna Friðriksdóttir (Section 6)

So this paper about Iceland is based on **Section 5 (Splitting up)** of the [LawsAndFamilies questionnaire](#), which contains questions about the following topics:

- 5.1 Dissolution by court
- 5.2 Agreed administrative dissolution
- 5.3 Unilateral administrative dissolution
- 5.4 Agreed informal dissolution
- 5.5 Unilateral informal dissolution
- 5.6 Dissolution by marrying someone else
- 5.7 Ending by conversion
- 5.8 Ending by marrying each other
- 5.9 Property at dissolution
- 5.10 Alimony
- 5.11 Parental authority
- 5.12 General background regarding splitting up

In the following pages of this paper, first the answer to question 5.12 is presented, followed by the answers to questions 5.1 to 5.11.

5.12 - General background regarding splitting up (Open question)

If you consider it useful to provide some general information or comments about (past, present or future) developments and trends in legal policy and case law in your country/jurisdiction, or information on other aspects (socio-legal, political, legal-cultural, etc.) that may be relevant for the understanding your answers above regarding splitting up, then please do so here.

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Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).**

Section: **5 - Splitting up**

Question: **5.01 - Dissolution by court**

Can this type of relationship be ended by court decision?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2010	2015 N/A 0000	2015 Yes 2010	X	X
	N/A 0000		Yes 1996	X	X
			N/A 0000	X	X
References to legal sources: Art. 41 of the Marriage Act no. 31/1993.		References to legal sources: Art. 41 of the Marriage Act no. 31/1993. Art. 141 of the Marriage Act, as amended by law no. 65/2010, in force from 27 June 2010. Art. 8 of the Registered Partnership Act no. 87/1996, repealed by law no. 65/2010 introducing marriage equality.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Separation and divorce can be granted on different legal grounds.</p>		<p>Explanations and nuances: The Icelandic Registered Partnership Act no. 87/1996 came into effect on 27 June 1996, allowing same-sex partners to register their partnership with the same effects regarding dissolution as for marriage. This Act was repealed by law no. 65/2010 which introduced marriage equality, in force from 27 June 2010. Since the Registered partnership Act no. 87/1996 was repealed it is impossible to enter into a registered partnership. According to art. 141 of the Marriage Act no. 31/1993, as amended by law no. 65/2010, it is possible for already registered partners to change their partnership into marriage. This does not happen automatically and registered partners are not obliged to do this. According to art.141(3) registered partnerships established under Act no. 87/1996 have the same legal consequence as marriages.</p>			

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir**, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.02 - Agreed administrative dissolution**

Can this type of relationship be ended by mutual agreement in an administrative procedure?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2010	2015 N/A 0000	2015 Yes 2010	X	X
	N/A 0000		Yes, but 1996	X	X
			N/A 0000	X	X
References to legal sources: Chapter IV on Separation and Divorce of the Marriage Act no. 31/1993.		References to legal sources: See question 5.01.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Divorce is generally granted in two stages, legal separation and legal divorce, the latter formally ending the marriage. If spouses are in agreement to seek legal separation, a permit for such separation is granted to them by the District Commissioner. If they are in agreement they can seek legal divorce six months later from the District Commissioner.</p>		<p>Explanations and nuances: See explanations for marriage.</p>			

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir**, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.03 - Unilateral administrative dissolution**

Can this type of relationship be ended by one partner unilaterally in an administrative procedure?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 No 2010	2015 N/A 0000	2015 No 2010	X	X
	N/A 0000		No 1996	X	X
			N/A 0000	X	X
References to legal sources: Chapter IV of the Marriage Act no. 31/1993.		References to legal sources: See question 5.01.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Art. 34 states that a spouse who considers that his or her marriage can not be continued shall be entitled to legal separation. Art. 36 allows each spouse to seek legal divorce when one year has passed (six months if it is a joint petition) from the date a permit for legal separation was issued or judgment pronounced. One partner can also unilaterally claim divorce on other grounds, such as in the case of adultery or assault. "No" because according to art. 41 a petition for separation or divorce may only be submitted to a District Commissioner if the spouses mutually agree on such a procedure.</p>		<p>Explanations and nuances: See explanations on marriage.</p>			

Jurisdiction: **Iceland**

Source: H. Friðriksdóttir, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.04 - Agreed informal dissolution**

Can this type of relationship be ended by mutual agreement without involvement of any authority?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 No 2010	2015 N/A 0000	2015 No 2010	X	X
	N/A 0000		No 1996	X	X
			N/A 0000	X	X
References to legal sources: Chapter IV on Separation and Divorce of the Marriage Act no. 31/1993.		References to legal sources: See question 5.01.			
Explanations and nuances: Legal separation and legal divorce always require the involvement of either a District Commissioner or a court.		Explanations and nuances:			

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir**, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.05 - Unilateral informal dissolution**

Can this type of relationship be ended by one partner unilaterally without involvement of any authority?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 No 2010	2015 N/A 0000	2015 No 2010	X	X
	N/A 0000		No 1996	X	X
			N/A 0000	X	X
References to legal sources: See question 5.04.		References to legal sources: See question 5.04.			
Explanations and nuances:		Explanations and nuances:			

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir**, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.06 - Dissolution by marrying someone else**

Can a registered partnership be ended by one partner marrying someone else?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
X	X	2015 N/A 0000	2015 No 2010	X	X
X	X		No 1996	X	X
X	X		N/A 0000	X	X
		References to legal sources: See questions 5.01 and 5.04.			
		Explanations and nuances:			

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).**

Section: **5 - Splitting up**

Question: **5.07 - Ending by conversion**

Can this type of relationship be ended by the partners by way of conversion (of a marriage into a registered partnership or vice versa)?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No 0000	2015 No 2010	2015 N/A 0000	2015 Yes 2010	X	X
	N/A 0000		No 1996	X	X
			N/A 0000	X	X
References to legal sources: See question 5.04.		References to legal sources: Art. 141 of the Marriage Act no. 31/1993, as amended by law no. 65/2010, in force from 27 June 2010.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
Explanations and nuances:		Explanations and nuances: The Registered Partnership Act no. 87/1996 was repealed by law no. 65/2010 which introduced marriage equality, in force from 27 June 2010. According to art. 141 of the Marriage Act, as amended by law no. 65/2010, it is possible for already registered partners to change their partnership into marriage. This does not happen automatically and registered partners are not obliged to do this. A marriage cannot be converted into a registered partnership.			

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).**

Section: **5 - Splitting up**

Question: **5.08 - Ending by marrying each other**

Can a registered partnership be ended by the partners marrying each other?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
X	X	2015 N/A 0000	2015 Yes 2010	X	X
X	X		No 1996	X	X
X	X		N/A 0000	X	X
		References to legal sources: See question 5.07.			

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
		<p>Explanations and nuances: According to art. 141 of the Marriage Act, as amended by law no. 65/2010 (introducing marriage equality), it is possible for already registered partners to enter into marriage. They may do so without an Examination of Impediments to Marriage Certificate.</p>			

Jurisdiction: **Iceland**

Source: H. Friðriksdóttir, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.09 - Property at dissolution**

In case the partners split up, do statutory rules consider as joint property any possessions acquired by either of them after they started this type of relationship?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 No, but 0000	2015 No, but 2010	2015 N/A 0000	2015 No, but 2010	2015 No, but 1981	2015 No, but 2006
	N/A 0000		No, but 1996	No 0000	N/A 0000
			N/A 0000		
References to legal sources: Chapter VIII (Property of Spouses) and art. 103 (principle of division by halves) of the Marriage Act no. 31/1993.		References to legal sources: See question 5.01.		References to legal sources: There are no general laws on cohabitation.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: The property of a spouse, acquired before or during a marriage, can be either his/her matrimonial property or separate property. In the absence of a marriage settlement, or specific provisions to the contrary, the property of a spouse shall become his or her matrimonial property. "No but" because it has to be mentioned that even though property is not considered joint a general principle of division by halves applies in case partners split up. According to art. 103 each of the spouses has a claim to one half of the net matrimonial property of the other, provided other statute provisions do not lead to a different arrangement.</p>		<p>Explanations and nuances: See explanations on marriage.</p>		<p>Explanations and nuances: Each cohabiting partner is first and foremost considered the owner of all property he/she acquires during the cohabitation. It is possible to acknowledge joint ownership if the other partner is found to have contributed directly or indirectly to the acquisition of said property. Leading principle is Supreme Court Judgement of 4 February 1981, H. 1981:128.</p> <p>Cohabitation has evolved since before and around the middle of the 20th century, gradually attaching legal rights and obligations to some forms of non marital cohabitation. Until 2006 such legal provisions in general only applied to different-sex partners, with a few exceptions. Law no. 65/2006, in force from 27 June 2006, amending numerous laws, effectively introduced cohabitation equality as the general rule.</p>	

Jurisdiction: **Iceland**

Source: **H. Friðriksdóttir**, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.10 - Alimony**

In case the partners split up, do statutory rules on alimony apply?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2010	2015 N/A 0000	2015 Yes 2010	2015 No 0000	2015 No 2006
	N/A 0000		Yes 1996		N/A 0000
			N/A 0000		
References to legal sources: Chapter VII (Responsibility of Spouses for the Maintenance of the Family) of the Marriage Act no. 31/1993.		References to legal sources: See question 5.01.		References to legal sources: There is no general law on cohabitation.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: According to art. 50 the mutual obligation of spouses to maintain each other shall not be affected by legal separation. When legal separation takes place a decision shall be taken as to whether one spouse shall pay alimony to the other, and as to the amount of such alimony. After legal divorce (usually six or twelve months after legal separation) has been granted one spouse shall not be ordered to pay alimony to the other, save in very exceptional circumstances.</p>		<p>Explanations and nuances: See also explanations on marriage.</p>		<p>Explanations and nuances: Cohabitants have no duty to provide maintenance, neither during nor after they stop living together.</p> <p>On same-sex cohabitation see question 5.09.</p>	

Jurisdiction: **Iceland**

Source: H. Friðriksdóttir, "Splitting up and legal family formats in Iceland". In: K. Waaldijk et al. (eds.), *The LawsAndFamilies Database – Aspects of legal family formats for same-sex and different-sex couples*. Paris: INED, 2017, www.LawsAndFamilies.eu, [LawsAndFamilies-IS-Section5.pdf](#) (please use this full citation when citing any information from this table).

Section: **5 - Splitting up**

Question: **5.11 - Parental authority**

In case the partners split up, do statutory rules on parental authority/responsibility apply?

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
2015 Yes 0000	2015 Yes 2010	2015 N/A 0000	2015 Yes 2010	2015 Yes 0000	2015 Yes 2006
	N/A 0000		Yes 2006		N/A 0000
			Yes, but 1996		
			N/A 0000		
References to legal sources: Art. 31 of the Children Act no. 76/2003 with later amendments.		References to legal sources: Art. 31 of the Children Act no. 76/2003 with later amendments. Art. 141 of the Marriage Act, as amended by law no. 65/2010, in force from 27 June 2010.		References to legal sources: Art. 31 of the Children Act no. 76/2003 with later amendments.	

Marriage		Registered partnership		Cohabitation	
diff.-sex	same-sex	diff.-sex	same-sex	diff.-sex	same-sex
<p>Explanations and nuances: Iceland has a long history of statutory provisions on parental authority after separation and divorce. These rules have gradually been changing placing a growing emphasis on joint parental authority or joint custody. Art. 31 of the Children Act now states that following divorce parents shall exercise joint custody over their child unless other arrangements are determined. The parents shall decide with which of them the child is to be legally domiciled and consequently where the child's place of permanent residence is to be. Parents may make an agreement by which custody of the child is to be exercised by one of them. If they do not agree on custody or legal domicile the case is referred to court. From 2012, this provision also applies in the event of a divorce between a parent and a step-parent, if the parent and step-parent had joint custody during the marriage established by a formal agreement (art. 29 a, added by law 61/2012 amending the Children Act). Before 2012 step-parents could enjoy parental authority only while the marriage lasted but not after.</p>		<p>Explanations and nuances: When the Registered Partnership Act no. 87/1996 came into force on 27 June 1996 a person entering into such a partnership automatically became the step-parent of his/her partner's child. Step-parents had parental authority while the relation lasted but there was no possibility of joint parental authority after the partners split up.</p> <p>Law no. 52/2000 opened up step-parent adoption for registered partners and law no. 65/2006 opened up joint adoption and access to artificial fertilization. The provisions of the Children Act apply to issues of parental authority in the case registered partners as legal parents split up.</p>		<p>Explanations and nuances: See explanations for marriage. The same rules apply for cohabitants that have registered their cohabitation with Registers Iceland (the registration requirement was introduced by the current Children Act no. 76/2003, before that proof of actual cohabitation was sufficient).</p> <p>For same-sex cohabitation see explanations for question 5.09.</p>	