

Rules of Conditions in Marriage Contract

Ref: *Sefer Nashim, Hilchot Ishut, Chapter 6*

When a man consecrates a woman based on a condition, then if the condition is met the *kidushin* are binding. If not, it is meaningless.

Every valid *tenai* (conditional agreement), whether relating to *kidushin*, divorce, commercial transactions or other business, must follow the following **4 rules**.

- 1) The condition must be two-fold i.e. include a positive and negative statement
- 2) The positive aspect must be stated before the negative aspect
- 3) The condition needs to be mentioned before the deed is carried out
- 4) The condition must have the capability to be carried out

If any one of these rules is missing then the condition is nullified and the consecration is invalid.

These conditions are recognised by being preceded with the word '*im*' (if) i.e. 'If' you do so and so 'then' you will be consecrated to me.

However, if the statement of condition implies that effect takes place straight away (i.e. terminology *meachshav*), after condition fulfilled in future (i.e. retroactively), then the above **4 rules** are not necessary.

Similarly, when a stipulation is appended with the words '*al menat*' (on condition that), then the above **4 rules** do not apply.

In summary

- Conditions starting with the words '*im*', need to comply with the **4 rules**
- Conditions stating retroactive effect (using word '*meachshav*') do *not* need the first 3 rules (condition more lenient)
- Conditions using the phrase '*al menat*' also do not need the first 3 rules (condition more lenient)

Reminder:

Pack on *Shtar*



A reason for these terminology differences is that the derivation of conditions is from the agreement between *Mosheh* and the tribes of *Gad* and *Reuven*. These tribes did not want to cross over the Jordan to dwell, but to settle on the East Side where it would be good for their cattle.

Mosheh then made a condition with them using the expression '*im*' – If you come with us to conquer the land first 'then' you can return afterwards to dwell there. The 4 conditions appeared in this prototype.

Therefore, when the term '*im*' is used, it needs to be very precise and expression needs the **4 rules**.

The other expressions have more leniency because they merely append to the main act.