

CHIEF REGISTRAR'S CIRCULAR NO. 1 OF 2007

CIVIL UNION ACT NO. 17 OF 2006

1. COMMENCEMENT OF THE ACT

The Civil Union Act, 2006 (Act No. 17 of 2006), herein after referred to as the Act, came into operation on 30 November 2006 (see notice number 1208 in Government Gazette number 29441 dated 30 November 2006).

2. PURPOSE OF THE ACT

The purpose of the Act is to provide for the solemnisation of civil unions, by way of either a marriage or civil partnership; the legal consequences of civil unions; and to provide for matters incidental thereto (pre-amble of the Act).

3. CIVIL UNION AND CIVIL UNION PARTNER AS DEFINED IN THE ACT

- 3.1. A "civil union", in terms of section 1 of the Act, means "the voluntary union of two persons who are both 18 years of age or older, which is solemnised and registered by way of either a marriage or a civil partnership, in accordance with the procedures prescribed in this Act, to the exclusion, while it lasts, of all others".
- 3.2. A "civil union partner", means "a spouse in a marriage or a partner in a civil partnership, as the case may be, concluded in terms of this Act".

4. LEGAL CONSEQUENCES OF A CIVIL UNION

- 4.1. The legal consequences of a marriage contemplated in the Marriage Act No. 25 of 1961 apply, with such changes as may be required by the context, to a civil union (section 13(1) of the Act).
- 4.2. With the exception of the Marriage Act, 1961 and the Customary Marriages Act No. 120 of 1998, any reference to –
 - (a) **marriage** in any other law, including the common law, **includes**, with such changes as may be required by the context, a **civil union**; and
 - (b) **husband, wife or spouse** in any other law, including the common law, **includes a civil union partner** (section 13(2) of the Act).

5. IMPACT OF PROVISIONS OF THE ACT ON THE DEEDS REGISTRATION PROCEDURES

- 5.1. The Act does not have any impact on the deeds registration procedures. All the provisions of the Deeds Registries Act No. 47 of 1937 and the Sectional Titles Act No. 95 of 1986 can therefore be applied to civil unions and civil union partners.

- 5.2. The Act does also not have any impact on the Matrimonial Property Act No. 88 of 1984. The provisions of the Matrimonial Property Act, 1984 are therefore applicable in exactly the same manner to the matrimonial property system of persons joined in a civil union, as it is applicable to the matrimonial property system of persons married in terms of the Marriage Act, 1961.
- 5.3. In view of the above-mentioned the following must be noted with regard to registration procedures in a deeds registry:
- 5.3.1. all the provisions of the Deeds Registries Act No. 47 of 1937 and the Sectional Titles Act No. 95 of 1986 are applicable to civil unions and civil union partners;
- 5.3.2. the same practices and procedures applicable to persons married in community/out of community of property in terms of the Marriage Act, 1961, are applicable to partners in a civil union (i.e. vesting of property). However, where a civil partnership instead of a marriage, as referred to in the definition of 'civil union' in section 1 of the Act, is registered, the parties must be described as follows:
- in instances where no antenuptial contract has been registered:
- ABC
Identity Number
- and
- XYZ
Identity Number
partners in a civil partnership in community of property registered in terms of the Civil Union Act No. 17 of 2006
- in instances where an antenuptial contract has been registered:
- ABC
Identity Number
partner in a civil partnership out of community of property registered in terms of the Civil Union Act No. 17 of 2006
- 5.3.3. the same practices and procedures applicable to the registration of antenuptial contracts of persons married in terms of the Marriage Act, 1961, apply to the registration of antenuptial contracts of persons joined in a civil union; and
- 5.3.4. the same practices and procedures applicable to the lodgement of marriage certificates and divorce orders of persons married in terms of the Marriage Act, 1961, apply to persons joined in a civil union.

Handwritten signature and initials in black ink. The signature is a large, stylized 'P' with a vertical line through it, and the initials are 'Z' with a small flourish.

CHIEF REGISTRAR OF DEEDS

DATE: 29 JANUARY 2007

REFERENCE: A. 6/2/P AND A. 1/3/1/205
RINGBINDER 68

CHIEF REGISTRAR OF DEEDS

REGISTRARS OF DEEDS

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