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MARRIAGE CONTRACTS

Introduction

By now you are probably making final preparations to get married, and your fiancé is nagging you to tick the antenuptial contract (marriage contract) box. My responsibility as your Notary is to make the process smooth and effortless to ensure one less thing to worry about before the wedding. Please call/email me if you have any questions or concerns which are not answered in this information brochure.

Procedure

After receiving your instruction, I will email a draft antenuptial contract and then arrange a signature meeting with you and your fiancé at my office in Parkhurst, Johannesburg. Alternative arrangements can be made if you cannot come to my office. Please ask as many questions at the meeting as you want about the antenuptial contract and marriage law.

Signing

The antenuptial contract must be signed before you get married. I will give you a certificate for the marriage officer to show that you entered into an antenuptial contract. Once signed, the contract is registered at the deed's office. You will receive the original registered contract as soon as we get it back from the deed's office, usually within 2 weeks.

Costs

The total cost is R4268 (including VAT @ 15%)

- R3473 marriage contract fee
- R445 deed's office registration fee
- R350 lodgement fee

Documents

I need the following paperwork to prepare your antenuptial contract:

- ID book/ID card/Passport for each spouse
- Recent account to residential address for FICA verification
- Divorce order or death certificate of deceased spouse (applicable to divorced or widowed persons)

- Do you want the accrual system to apply?
- Do you want to exclude assets from the accrual? Please specify.
- What are your total assets and liabilities?

Additional information required to calculate commencement value

- Motor vehicles: make, model, year of manufacture and registration number with the current outstanding value on finance agreements.
- Property: street address and erf number if known with the current outstanding balance on the bond account. Municipal account reflects the above information.
- Cash: no details required, only the amount.
- Household goods: brief summary with a total value.
- Shares: name of listed company, number of shares owned and current share list price.
- Pension and retirement annuity: your pension fund administrator must furnish present values on request with your pension number.
- This list is not exhaustive, you can tell me if you have other assets which you want to exclude from the accrual system.

Marriage Law

South African marriages can be in community of property or out of community of property (with or without the accrual system).

Marriage out of community of property excluding the accrual system: Each spouse keeps his own assets and liabilities. Neither spouse can claim against the other at dissolution of the marriage, except for maintenance.

Marriage out of community of property with the accrual system:
Each spouse maintains control over his/her own estate and is liable for his/her own debts and independently own property from the other spouse. The spouses declare the value of their individual estates in the antenuptial contract and the final values are calculated at dissolution of the marriage by death or divorce.

The accrual (increase in the value of the estate) of the spouses' estates is determined by calculating the difference between the commencement values of each estate in the antenuptial contract and the estate values at the dissolution of the marriage.

Assets reflected in the commencement value may be excluded from the calculation of the end values. The spouse whose estate accrued with the least is entitled to one half of the difference between the accrual of the two individual estates.

Should you require more information on how to get married, please visit:
<https://www.dha.gov.za/index.php/civic-services/marriage-certificates>

Email Etienne now at edeheus@edhlaw.co.za and tick the ANC box from the wedding preparation list!