FAMILY LAW

Marriages

Learn about marriage laws in South Africa, and the differences between civil marriages, customary marriages, and civil unions.

For all your legal-related marriage answers, follow our guide below:

1. How can a person get married in South Africa?
2. What are the general requirements for a valid marriage?
3. What is a civil marriage?
4. What is a customary marriage?
5. What is a civil union?
6. What is a religious marriage?
7. How can LegalWise assist you?

1. How can a person get married in South Africa?

- A person can get married in terms of a civil marriage, customary marriage, civil union or religious marriage.
- A religious marriage is not recognised as a legal marriage under South African law, but the spouses in a religious marriage are protected by law in certain instances.

2. What are the general requirements for a valid marriage?

- Both persons to the marriage must give consent to get married and must be older than 18 years of age.
- A person younger than 18 years of age, needs the permission of his/her parent/s or guardian/s to get married. No person younger than 18 years of age can enter into a civil union.
- The marriage must be lawful, for example:

    - persons who are closely related (such as brother and sister, or parent and child) may not get married; or
    - a person may not have more than one marriage at a time, except for certain instances under customary marriages.

- Certain formalities must be adhered to, such as that the marriage must be concluded by a marriage officer and in the presence of two witnesses.
- A marriage must be registered at the Department of Home Affairs.

3. What is a civil marriage?

- It is a marriage that can only be entered into between a man and a woman.
- A civil marriage will automatically be in community of property, unless an ante nuptial contract is entered into indicating that the marriage will be out of community of property, with or without the accrual system.

4. What is a customary marriage?

- It is a marriage entered into between a man and a woman, negotiated and celebrated according to the prevailing customary law in their community.
- A customary marriage is recognised as a valid marriage and will receive full legal protection irrespective of whether it is monogamous or polygamous.
- A monogamous customary marriage will automatically be in community of property, unless it is stipulated otherwise in an ante nuptial contract.
- In a polygamous marriage, the husband must apply to the High Court for permission to enter into such a marriage and provide the court with a written contract stating how the property in the marriages will be regulated (to protect the property interests of both the existing and prospective spouses).

5. What is a civil union?

- It is a marriage entered into between two persons and include persons of the same sex.
- A civil union will automatically be in community of property, unless it is stipulated otherwise in an ante nuptial contract.

6. What is a religious marriage?

- It is a marriage entered into in terms of a religion such as the Islamic and Hindu faith.
- Even though it is not recognised in South African law, limited protection is granted to a religious marriage in the following instances:
    - a spouse may, upon the death of the other spouse, approach a Magistrate's Court for a maintenance order against the deceased spouse's estate;
    - a spouse may inherit in terms of the law of intestate succession (when a person dies with no Will); and
    - spouses are protected against domestic violence.
- A religious marriage must be treated as a marriage out of community of property without the accrual system.

7. How can LegalWise assist you?

Should you require an explanation of your rights on this topic, please contact your nearest LegalWise Branch , call, e-mail or WhatsApp us. For more information about our membership options visit our legal services page or visit our join now page.

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