

YOUR RIGHTS IN A CUSTOMARY MARRIAGE

What is a Customary Marriage?

A customary marriage is one that was entered into and concluded in accordance with customary law.

What is customary law?

This means the customs and usages traditionally observed among the indigenous African Peoples of South Africa and which form part of the cultures of those peoples.

Who may marry in customary law?

Any South African can enter into a valid customary marriage as long as it is entered into and concluded in accordance with customary law and the persons to be married meet the requirements of the law regarding age, consent and affinity.

When must a customary marriage be registered?

If you married before the 15 of November 2001, you should have registered your marriage by the 14 of November 2002.

If you married after the 15 of November 2001, you should have registered your marriage within 3 months of the marriage.

Where must a customary marriage be registered?

A customary marriage must be registered at your nearest Department of Home Affairs, (Department of Home Affairs Pietermaritzburg Tel: 033 345 8224).

Who may register a customary marriage?

The wife or the husband may register the marriage, (Section 4(2) Recognition of Customary Marriages Act No 120 of 1998).

Who may register a customary marriage if a man has more than one wife?

Interpretation: If a man has more than one wife he can register each of his marriages. Each wife has the right to register her marriage.

Who will do the registration of the customary marriage?

A registration officer at the Department of Home Affairs.

What must you take with you to register your marriage?

- A copy of the wife's ID document;

- A copy of the husband's ID document;
- The marriage certificate; and
- R6,00 if you want a copy of the registration certificate.

What you must do if your marriage certificate has been lost or destroyed:

- You must also take with you the date of the marriage; and
- The name of the place where you got married.

With this information the Department of Home affairs can trace the marriage certificate for you.

Why is it important to register your marriage?

- To make it easier to obtain maintenance for children.
- To make it easier for a surviving spouse or spouses to claim a right to the assets of a deceased husband or wife.
- To make it easier for children and family members to prove their rights to a deceased estate.
- To make it easier for a wife to enforce her property rights if her husband takes a second, third or fourth wife.
- To help the court to protect the property rights of a spouse in a divorce.
- To help the court to protect the interests of dependent children in a divorce.

Do you want to know more about the rights of spouses in a customary marriage?

for example:

- What to do if your customary marriage is not registered in time
- The equal status of a wife and a husband in a customary marriage
- Equal rights of spouses to deal with the joint property of the marriage
- The rights of a spouse to deal with his/her own property that does not form part of the joint property of the marriage
- Changing the property system of a marriage to a better property system
- The property rights of a wife if her husband marries a second and third wife
- Changing a customary marriage to a civil marriage
- The law that applies to divorce proceedings to protect the property interests of spouses and children of the marriage

The Recognition of Customary Marriages Act No 120 of 1998 has been rewritten in simple language so that you can understand and know your rights and obligations. To obtain a copy contact the Centre for Criminal Justice 11 Golf Road Scottsville 3201; Tel: 033 260 5091; Fax 033 260 6208