



DYKES VAN HEERDEN GROUP OF COMPANIES
professionals striving for excellence

CIVIL UNION ACT, 2006

The Civil Union Act, 2006 came into effect on 30 November 2006, with the aim to provide for the solemnization of civil unions by way of either a marriage or civil partnership, the legal consequences of civil unions and incidentals.

DEFINITIONS

A "Civil Union" in Section 1 of the Act, is described as "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 procedures prescribed in this Act, to the exclusion, while it lasts, of all others" and is dissolved by death or divorce.

Parties entering into a union in terms of the Civil Union Act has a choice as to whether their union is called a civil partnership or a marriage partnership and is referred to as "civil union partners". There is no difference between the personal and proprietary consequences thereof.

WHO MAY OR MAY NOT ENTER INTO THIS UNION IN TERMS OF SECTION 8?

- A person may only be a spouse or partner in one marriage or civil partnership at any given time;
- A person in a Civil Union may not conclude a marriage under the Marriage Act or Customary Marriages Act, and vice versa.

LEGAL CONSEQUENCES IN TERMS OF SECTION 13

The Marriages Act apply with such changes as may be required; and

With the exception of the Marriage Act and the Customary Marriages Act, 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.

IMPACT

Parties who wish to enter into this union may enter into an ante nuptial contract in order for the marital property regime to be "out of community of property", whilst in the absence of such an ante nuptial contract the marital property regime of the union will be considered to be "in community of property".

DESCRIPTION OF PARTIES

With Ante Nuptial Contract:

ABC

Identity Number (123450 0000 000)

Partner in a civil partnership out of community of property registered in terms of the Civil Union Act No 17 of 2006

Without Ante Nuptial Contract

ABC

Identity Number (123450 0000 000)

And

XYZ

Identity Number (123450 1111 111)

Partners in a civil partnership in community of property registered in terms of the Civil Union Act No 17 of 2006.

PLEASE note that government is yet to deal with domestic partnerships.

COMPANIES WITHIN THE DYKES VAN HEERDEN GROUP

DYKES VAN HEERDEN INC

Tel : (011) 279-5000
 Fax : (011) 955-4799
 E-mail info@dvh.net.za
 19 Ontdekkers Road
 Roodepoort 1724, South Africa

 Docex 24, Roodepoort
 Web-site: <http://www.dvh.law.za>

DYKES VAN HEERDEN (CAPE) INC

Tel : 0861 110 210
 Fax : (021) 910-4911
 E-mail admin@dvh.law.za
 Unit E4/2, Edward IV
 120 – 122 Edward Street
 Bellville 7530, South Africa
 Docex 42, Tygerberg
 Web-site: <http://www.dvh.law.za>

DYKES VAN HEERDEN (KZN) INC

Tel : (031) 903- 1851
 Fax : (031) 903-1101
 E-mail thomas@kzndvh.za.net
 Nr. 18 Ridge Road
 Amanzimtoti
 Durban 4120, South Africa
 Docex 7, Amanzimtoti
 Web-site: <http://www.dvh.law.za>

**DYKES VAN HEERDEN SLABBERT
 HOPKINS INC**

Tel : 0861 110 210
 Fax : (021) 910-4911
 E-mail capetown@dvhs.law.za
 Unit E4/2, Edward IV
 120 – 122 Edward Street
 Bellville 7530, South Africa
 Docex 42, Tygerberg
 Web-site: <http://www.dvh.law.za>

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