



ANTENUPTIAL  
AGREEMENTS

SO YOU ARE GETTING MARRIED!

CONGRATULATIONS!

WE KNOW THIS WONDERFUL AND EXCITING TIME CAN ALSO BE EXTREMELY STRESSFUL WITH APPOINTMENTS LINING UP TO BRING TOGETHER YOUR PERFECT DAY. LET US MAKE THE CONCLUSION OF YOUR MARRIAGE CONTRACT AS EASY AS POSSIBLE WITH OUR SMOOTH ONLINE PROCESS.  
NO STRESSFUL, TIME-CONSUMING LEGAL MEETINGS REQUIRED!

IT IS AS SIMPLE AS READING THROUGH OUR INFORMATION SECTION BELOW AND ANSWERING SOME QUICK QUESTIONS.

OUR ONLINE PROCESS:

- COMPLETE OUR SHORT INFORMATION FORM TOGETHER AFTER READING THE SUPPLIED INFORMATION BELOW.
- SEND US YOUR COMPLETED INFORMATION FORM, DOCUMENTS AND PROOF OF PAYMENT VIA E MAIL OR WHATSAPP.
- WE E MAIL YOUR DOCUMENTS TO YOU FOR SIGNATURE, BEFORE YOUR WEDDING DATE, AND YOU SEND THE SIGNED DOCUMENTS BACK TO US VIA OVERNIGHT COURIER.
- WE ENSURE THE DOCUMENTS ARE EXECUTED IN FRONT OF A NOTARY, LODGED AT THE DEEDS OFFICE AND SEND YOU THE CERTIFICATE YOU NEED TO SUPPLY TO THE PERSON OFFICIATING AT YOUR CEREMONY.

IT'S AS EASY AS THAT!

## INFORMATION FOR MARRIAGE CONTRACTS:

DECIDING ON THE MARITAL REGIME THAT WILL BE APPLICABLE TO YOUR MARRIAGE IS ONE OF THE MOST IMPORTANT DECISIONS YOU AND YOUR PARTNER WILL HAVE TO MAKE BEFORE YOUR WEDDING.

AS A RESULT IT IS IMPORTANT TO ENSURE THAT YOU ARE FULLY INFORMED SO YOU CAN MAKE THE BEST DECISION FOR YOU AS A COUPLE.

## WHY DO YOU NEED A PRENUPTIAL AGREEMENT?

IN SOUTH AFRICA THE LEGAL POSITION IS THAT ALL MARRIAGES ARE IN COMMUNITY OF PROPERTY UNLESS YOU REGISTER A PRENUPTIAL AGREEMENT. (ALSO COMMONLY REFERRED TO AS AN ANTENUPTIAL CONTRACT) THIS MEANS A COUPLE WILL SHARE EQUALLY IN ALL ASSETS GAINED BY THEM BEFORE AND DURING THEIR MARRIED LIFE TOGETHER. BUT IT ALSO MEANS THAT THEY WILL SHARE EQUALLY IN ALL DEBTS MADE.

THE MAIN NEGATIVE EFFECT OF THIS IS THAT, IF ONE PARTNER EXPERIENCES FINANCIAL DIFFICULTY OR IS SEQUESTERED, ALL THE ASSETS OF BOTH PARTNERS CAN BE TAKEN TO COVER THE DEBTS. THIS SITUATION MAY RESULT IN LOSING ALL YOUR ASSETS AS A COUPLE AT THE SAME TIME WITH NO FALLBACK. IT IS THE EQUIVALENT OF PUTTING ALL YOUR FINANCIAL 'EGGS' IN ONE BASKET.

THIS IS WHERE A PRENUPTIAL AGREEMENT COMES INTO PLAY AS A FINANCIAL PLANNING TOOL. IN ORDER TO AVOID THE NEGATIVE EFFECTS OF A MARRIAGE IN COMMUNITY OF PROPERTY, YOU CAN REGISTER A PRENUPTIAL AGREEMENT. THIS WILL MEAN THAT, SHOULD ONE PARTNER EXPERIENCE FINANCIAL DIFFICULTY, THE ASSETS OF THE OTHER WILL REMAIN THEIR OWN AND SAFE FROM CREDITORS. THE 'SAFE' PARTNER WILL BE ABLE TO PROVIDE FOR THE FAMILY FINANCIALLY UNTIL THE INDEBTED PARTNER IS BACK ON HIS OR HER FEET.

CONTRARY TO PUBLIC BELIEF THE MOST IMPORTANT REASON TO REGISTER AN PRENUPTIAL AGREEMENT IS NOT THE POSSIBILITY OF A DIVORCE LATER ON, BUT TO GRANT YOUR PARTNER THE SECURITY OF KNOWING YOU CAN RELY ON EACH OTHER IN TIMES OF FINANCIAL NEED.

## WHAT ARE YOUR OPTIONS?

SHOULD YOU CHOOSE TO REGISTER A PRENUPTIAL AGREEMENT, AND MARRY 'OUT OF COMMUNITY OF PROPERTY' THERE ARE TWO OPTIONS YOU CAN CHOOSE FROM:

OPTION 1OUT OF COMMUNITY OF PROPERTY - WITH THE ACCRUAL SYSTEM

THE ACCRUAL SYSTEM IS A WAY FOR COUPLES TO ENSURE A SENSE OF FAIRNESS AND EQUALITY TO A MARRIAGE IT ALLOWS EACH PARTNER TO SHARE EQUALLY IN THE GROWTH IN WEALTH GATHERED TOGETHER DURING THE COURSE OF THE UNION THIS OPTION STILL GRANTS ALL THE PROTECTION OF A MARRIAGE OUT OF COMMUNITY OF PROPERTY, BUT GIVES THE ADDITIONAL BENEFIT SHARING FINANCIAL GROWTH

IN MODERN SOUTH AFRICA IT IS COMMON THAT ONE PARTNER WILL STAY HOME AND CARRY ON THE HOUSEHOLD TO ENABLE THE OTHER PARTNER TO WORK AND GAIN ASSETS, OR FOR ONE PARTNER TO ASSIST IN THE BUSINESS OF THE OTHER WITHOUT RECEIVING A SALARY TO ENABLE THE BUSINESS OWNER TO MAKE MORE PROFIT FOR THE HOUSEHOLD. ALTHOUGH BOTH ARE CONTRIBUTING ONLY ONE SHOWS OBJECTIVE GROWTH IN WEALTH. THE ACCRUAL SYSTEM IS THERE TO ENABLE COUPLES TO SHARE EQUALLY IN THE WEALTH THEY GATHER AS A TEAM.

IN THIS CASE THE EFFECT OF YOUR PRENUPTIAL AGREEMENT WILL BE THAT YOUR ASSETS AND LIABILITIES REMAIN ENTIRELY SEPARATE (FROM THE PERSPECTIVE OF CREDITORS) FROM THOSE OF YOUR PARTNER DURING THE COURSE OF YOUR MARRIED LIVES TOGETHER. ONLY ON TERMINATION OF A UNION BY DEATH OF A PARTNER OR DIVORCE THE ACCRUAL SYSTEM COMES INTO PLAY.

THIS DIVISION OF PROPERTY ENSURES THAT THE PARTIES END UP SHARING EQUALLY IN THE FINANCIAL GROWTH OBTAINED DURING THEIR MARRIAGE ON TERMINATION OF THE UNION.

## FOR EXAMPLE:

PARTNER 1 GROWTH UPON TERMINATION R200.00  
 PARTNER 2 GROWTH UPON TERMINATION R100.00  
 TO DETERMINE THE DIFFERENCE IN GROWTH: R200.00 MINUS R100.00 = R100.00  
 HALF OF THE DIFFERENCE = R50.00  
 PARTNER 1 WILL THUS BE AWARDED R50.00 UPON TERMINATION OF THE UNION AND BOTH PARTIES WILL HAVE R150 IN THE END.

A STARTING VALUE MUST BE INCLUDED IN YOUR AGREEMENT FOR EACH OF YOU TO HAVE A STARTING POINT TO CALCULATE GROWTH FROM. MANY COUPLES CHOOSE TO BOTH START WITH A ZERO STARTING VALUE EVEN THOUGH THEY DO IN FACT HAVE ASSETS.

SHOULD YOU WISH TO ADD A STARTING VALUE FOR THE ASSETS YOU HAVE ALREADY ACCUMULATED PRIOR TO YOUR WEDDING DATE, PLEASE ADD UP THE VALUES OF ALL YOUR ASSETS, AND THEN DEDUCT THE TOTAL OF ALL YOUR LIABILITIES. THIS WILL BE YOUR STARTING VALUE.

OPTION 2:

OUT OF COMMUNITY OF PROPERTY - WITHOUT THE ACCRUAL SYSTEM

IN THIS CASE YOUR ANTENUPTIAL AGREEMENT WILL ENSURE THAT THE ASSETS AND LIABILITIES OF EACH PARTNER REMAIN ENTIRELY SEPARATE DURING THE COURSE OF YOUR MARRIED LIVES TOGETHER, AS WELL AS UPON TERMINATION OF THE UNION.

EACH PARTY WILL LEAVE THE UNION WITH ONLY THEIR OWN ASSETS AND LIABILITIES. THIS SYSTEM STILL PROTECTS FULLY AGAINST CREDITORS, BUT WITHOUT ANY SHARING IN ASSETS OR GROWTH IN WEALTH.

THIS IS ALSO REFERRED TO AS "GETTING MARRIED ENTIRELY OUT OF COMMUNITY OF PROPERTY"

THIS COURSE OF ACTION IS GENERALLY ADVISED TO OLDER COUPLES WHO ARE NOT GETTING MARRIED FOR THE FIRST TIME, OR FOR COUPLES WHERE ONE OR BOTH PARTNERS OWN A LARGE AMOUNT OF ASSETS ALREADY, OR WHERE BOTH PARTIES FEEL THAT FULL FINANCIAL SEPARATION OF THEIR ASSETS WILL BE MOST BENEFICIAL TO THEIR RELATIONSHIP GOING FORWARD.



REMEMBER YOU MUST MAKE YOUR DECISION ON THE MARITAL REGIME THAT WORKS BEST FOR YOU BOTH IN ORDER TO START YOUR HAPPY AND FINANCIALLY SECURE MARRIED LIFE TOGETHER.

THERE IS NO RIGHT OR WRONG CHOICE  
THIS IS ABOUT FINDING THE RIGHT FIT FOR THE TWO OF YOU AS A UNIQUE COUPLE  
BUILDING A FUTURE TOGETHER



INFORMATION FORM

WHEN ARE YOU GETTING MARRIED: DAY: \_\_\_\_ / MONTH: \_\_\_\_ / YEAR: \_\_\_\_\_

WHAT OPTION OF MARRIAGE CONTRACT WOULD YOU LIKE:

OUT OF COMMUNITY OF PROPERTY WITH THE ACCRUAL: \_\_\_\_\_

OUT OF COMMUNITY OF PROPERTY WITHOUT THE ACCRUAL: \_\_\_\_\_

SPOUSE 1:

FULL NAMES: \_\_\_\_\_

STARTING VALUE: \_\_\_\_\_ (NEEDED IF YOU CHOSE WITH ACCRUAL)

CELL NUMBER: \_\_\_\_\_ E MAIL: \_\_\_\_\_

HAVE YOU EVER BEEN MARRIED BEFORE: \_\_\_\_\_

SPOUSE 2:

FULL NAMES: \_\_\_\_\_

STARTING VALUE: \_\_\_\_\_ (NEEDED IF YOU CHOSE WITH ACCRUAL)

CELL NUMBER: \_\_\_\_\_ E MAIL: \_\_\_\_\_

HAVE YOU EVER BEEN MARRIED BEFORE: \_\_\_\_\_

WOULD YOU LIKE TO TAKE ADVANTAGE OF OUR HONEYMOONERS WILLS OFFER: \_\_\_\_\_  
(TWO STANDARD WILLS FOR THE PRICE OF ONE CAN BE INCLUDED WITH YOUR CONTRACT)

PLEASE SEND THIS FORM TO US VIA WHATSAPP @ 0833838167 OR E MAIL NK@NKLAW.CO.ZA  
WITH THE FOLLOWING :

ID COPY FOR EACH OF YOU

PROOF OF RESIDENTIAL ADDRESS EACH

PROOF OF PAYMENT ( R1400.00 PRE-NUP ONLY) (R2600.00 WILLS SPECIAL INCLUDED)

COPY OF ANY PREVIOUS DIVORCE ORDERS- IF APPLICABLE

BANKING DETAILS

NK ATTORNEYS

ABSA TRUST ACCOUNT

ACCOUNT NUMBER 4109379960

BRANCH 632005

REF: YOUR SURNAME

