



ANTENUPTIAL AGREEMENTS

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YOU ARE GETTING MARRIED

We at DTL know this wonderful and exciting time can also be extremely stressful. Appointments lining up to bring together your perfect day; so, let us make the conclusion of your marriage contract as easy as possible with our smooth online process and no time-consuming legal meetings are required. It is as simple as reading through our information section below and answering some quick questions.

HOW DOES OUR ONLINE PROSESS WORK?

Complete our information form together, after reading the supplied information below Send us you completed information form, documents and proof of payment via email We schedule an online consultation with you via Zoom or WhatsApp whereafter we email your documents to you for signature before your wedding date, and you send the originally 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

INFORMATION FOR MARRIAGE CONTRACTS

Deciding on the marital regime that will be applicable to your marriage is one of the most important decision 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 African the legal position is that all marriages are in community of property unless you register a prenuptial agreement (Antenuptial contract / ANC). This means a couple will share equally in all assets gained by them before and during their marriage 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 sequestrated 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. It is like putting all your "eggs" in one basket. So, this is where a prenuptial agreements comes 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 other partner will be able to provide for the family financially until the indebted partner is back on his/her feet.

WHAT IS THE 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 1

Out of community of property WITH the accrual system

OPTION 2

Out of community of property WITHOUT the accrual system

OPTION 1 (WITH ACCRUAL)

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 during 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. It can be 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 (for creditors) from those of your partner during your married lives together and 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 R2000

Partner 2 growth upon termination R1000

Determine the difference in growth (accrual) $R2000 - R1000 = R1000$

Half of the difference (R500) will be awarded upon termination of the union to the partner with the lesser growth

A starting value must be included in your agreement for each of you. To have a starting point to calculate growth from, you can choose to both start with a zero starting value even though you 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 Netto starting value.

OPTION 2 (WITHOUT ACCRUAL)

In this case your prenuptial agreement will ensure that the assets and liabilities of each partner remain entirely separate during your marriage 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 sharing in assets of growth in wealth. 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 partners 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 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 FOR DRAFTING OF CONTRACT

WHEN ARE GETTING MARRIED? DAY_____MONTH_____YEAR_____

WHAT OPTION OF MARRIAGE CONTRACT WOULD YOU LIKE?

- OPTION 1—OUT OF COMMUNITY OF PROPERTY WITH THE ACCRUAL.**
- OPTION 2—OUT OF COMMUNITY OF PROPERTY WITHOUT THE ACCRUAL.**

Would you like an online consultation? _____(If YES, we will send you a link)

SPOUSE 1

FULL NAMES AND SURNAME_____

CELL:_____E-MAIL:_____

ARE YOU DIVORCED? YES / NO IF YES, DATE OF YOUR DIVORCE:_____

STARTING VALUE OF ACCRUAL (IF YOU CHOSE THIS OPTION)_____

SPOUSE 2

FULL NAMES AND SURNAME_____

CELL:_____E-MAIL:_____

ARE YOU DIVORCED? YES / NO IF YES, DATE OF YOUR DIVORCE:_____

STARTING VALUE OF ACCRUAL (IF YOU CHOSE THIS OPTION)_____

Would you like to take advantage of our wills offer together with the drafting of your pre-nuptial agreement? YES / NO
(this offer includes two standard wills for the price of one)

PLEASE SENT THIS FORM TO US VIA E-MAIL to lerina@dtllaw.co.za TOGETHER WITH THE FOLLOWING:

- 1, ID copy of each partner
- 2, Proof of residential address of each partner not older than 3 months
- 3, Proof of payment (R3300.00 pre-nup only) (R4000.00 wills special included)
- 4, Copy of any previous divorce orders (if applicable)
- 5, List of all assets (including policies, bank accounts, investments together with their policy/account numbers) and their values and liabilities and values for each partner (only if "with accrual" options was selected)
- 6, POPI consent form

OUR BANKING DETAILS:
DU TOIT LAMBRECHTS INC
ABSA TRUST ACCOUNT (CURRENT)
ACCOUNT NUMBER: 407 511 6949
BRANCH: 632 005
REF: ANC/SURNAME

Consent in terms of the Protection of Personal Information Act

I, _____ the undersigned, hereby agree to provide my/our personal information to Du Toit Lambrechts Incorporated on the express understanding that: This constitutes our consent, as required under Section 11(1)(a) of the Protection of Personal Information Act 4 of 2013 ("POPI"). Du Toit Lambrechts Incorporated and their staff will have access to my/our personal details which we/or persons acting on our behalf have furnished them for the purposes of attending to this matter, and matters ancillary thereto. In addition to its POPI compliance Du Toit Lambrechts Incorporated will store our details, as provided for and specified by the Legal Practice Council from time to time. Du Toit Lambrechts Incorporated, as firm of attorneys has the privilege of confidentiality under the law pertaining to its clients. I hereby consent to receiving Newsletters and/or other useful information from Du Toit Lambrechts Incorporated in the future? YES / NO

DATE: _____

CLIENT SIGNATURE: _____