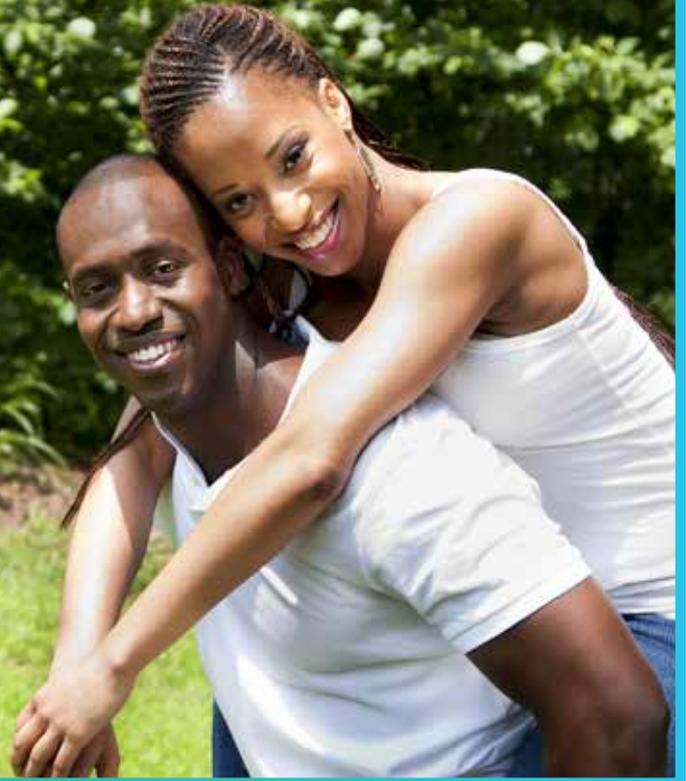


THE LOGIC OF LOVE

Beyond the diamonds, dresses and – of course – the love, there are some really good reasons for putting a ring on it.



THE LEGAL ADVANTAGES OF MARRIAGE

Beyond having someone to call “hubby”, there are other benefits enjoyed by partners who are bound by a legally recognised marriage. This includes:



Duty of support:

If you are married, you and your spouse are obliged to support each other, depending on your respective means and needs.



Maintenance after death:

When a spouse dies, the surviving spouse can claim spousal maintenance from his or her deceased estate.



Inheritance:

Spouses can benefit from the estate of the deceased (in the event one of you dies without a will).

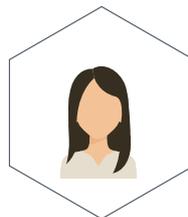


Termination of the relationship:

When spouses divorce, each is entitled to a portion of the property, depending on the marital regime.

According to South African law, an unmarried couple will be seen as partners and not as marital spouses if they do not have a recognised and lawful partnership or agreement. Without a binding agreement, such as a marriage certificate, there are no obligations in place.

This means, for example, that if you and your partner buy a house together, but the house is in your partner’s name, there is no way for you to prove that the house was shared if you were to break up.



“But, living with your partner does not automatically give you the legal rights and protection of marriage,” says legal advisor Chantel Cronje from Legal&Tax.

"WE ALREADY LIVE TOGETHER... NOW WHAT?"



"It's simple – make sure that your assets are protected," says legal advisor Chantel Cronje from Legal&Tax.

If you want to live together with your partner, but do not plan to get married (at the moment or ever), draw up a legal partnership or cohabitation (living together) agreement to protect both of your interests.

This agreement should state the following:



Disclosure of current financial status:

Each party must disclose their current financial situation, including all assets and liabilities. A balance sheet should also be attached to the agreement.



Division of living expenses:

Groceries, rent, medical aid and other living expenses can be divided and specified between the parties.



Joint property:

If partners have bought a property together, this must be included in the agreement.



Separate properties:

Partners must specify properties they do not want to include in the agreement.



Death:

Mutual promises must be specified in writing in the event of death. Separate or joint wills should also be attached to the cohabitation agreement.

"OKAY, SO WE'VE DECIDED TO GET MARRIED... NOW WHAT?"

If the decision is made to get married, South Africans may be married under two types of antenuptial contracts (also known as an ANC), explains Cronje:

Out of community of property (subject to the accrual system):

With the accrual system, both spouses have separate assets and do not share in each other's recorded profits or losses from before the marriage. But, once married, everything that is bought or earned is shared equally between both parties. This is the basis of an "in community of property marriage". So, while neither party will be liable for the other spouse's debts or profits before marriage, the parties will share what they acquire during the marriage.

Out of community of property (not subject to the accrual system):

This means there is a complete separation of assets – not only those assets brought into the marriage, but also those made or bought during the marriage. When the accrual system does not apply, it must specifically be excluded in the antenuptial contract.

If there is no antenuptial contract, then the marriage will be in community of property:

In this instance, anything that each party owns (including their individual debts from before the marriage) are put together in a joint estate – except for certain assets such as gifts or inheritances. From this point onwards, everything accumulated after the marriage will also form part of this joint estate, including any debts and liabilities. Each party will have a claim to half of the estate and be equally responsible for the combined debts and liabilities.

Whether it's Valentine's Day or any other day of the year, it's important to know your rights and responsibilities before making crucial decisions.



Download a free cohabitation agreement. Go to legalandtax.co.za

Legal&Tax

For more information about your rights, go to legalandtax.co.za or call 0860 587 587.