

How can LegalWise assist you?

Call Windhoek 061 236 585
or Walvisbay 083 330 0288
or Oshakati 083 330 7707
and we will contact you!

QuickLaw answers your questions

Adoption
Age, Domicile and Status
Being Employed
Child Contact
Credit Agreements
Dismissals
Divorce
Domestic Violence
Emoluments Attachments
Maintenance
Marriages
Motor Vehicle Accidents
Strikes and Lock-Outs
Unmarried Father
Wills
Workplace Injuries

Don't talk to me, talk to my lawyer

www.legalwise.com.na

Legal Expenses Insurance Namibia (Pty) Limited (Reg. No. 2021/0878)
is a registered Insurance Agent (NAMFISA) Directors: CJ Luwes, RW Smith
Underwritten by Hollard Insurance Company of Namibia Limited
(Reg. No. 2003/049). Copyright in this entire document vests in LEZA.



Marriages



How can a person get married in Namibia?

A person can get married in terms of a civil marriage or customary marriage.

- **Civil marriage** is when a man and a woman are married by a marriage officer. All magistrates are marriage officers. Most pastors, priests and other church leaders are also marriage officers. Any person with a marriage certificate has a civil marriage. The law on civil marriages is the same in every part of Namibia.
- **Customary marriage** is when a man and a woman are married according to the traditions of their community, but without a marriage officer. The law on customary marriages is different in different communities. Customary marriages are not registered. People who enter into customary marriages do not get a marriage certificate. (Laws to change this situation are being considered. In future, there may be a procedure for registering customary marriages).

The Namibian Constitution respects both common law (or civil marriages) and customary law. But any parts of either law which conflict with the rights guaranteed by the Constitution will not be valid.

What are the general requirements for a valid marriage?

- Both persons to the marriage must give consent to get married and must be older than 18 years of age.
- A person younger than 18 years of age, needs the permission of his/her parent/s or guardian/s to get married. No person younger than 18 years of age can enter into a civil marriage.

The marriage must be lawful, for example:

- persons who are closely related (such as brother or sister, or parent and child) may not get married; or
- a person may not have more than one marriage at a time, except for customary marriages.
- Certain formalities must be adhered to, such as that the marriage must be concluded by a marriage officer and in the presence of two witnesses.
- A marriage must be registered at the Department of Home Affairs.

What is a civil marriage?

- It is a marriage that can only be entered into between a man and a woman.
- A civil marriage will automatically be in community of property, unless the persons enter into an ante nuptial contract indicating that the marriage will be out of community of property, with or without the accrual system.

What is a customary marriage?

- It is a marriage entered into between a man and a woman, negotiated and celebrated according to the prevailing customary law in their community.

What is a religious marriage?

- It is a marriage entered into in terms of a religion such as the Islamic and Hindu faith.

For more information and help on this QuickLaw topic you can talk to a Legal Counsellor at your nearest LegalWise Branch or email windhoek@legalwise.na / oshakati@legalwise.na / walvisbay@legalwise.na

Glossary of terms:

ACCRUAL SYSTEM: during the marriages contracted out of community of property, each spouse retains control of his or her own property, builds up his or her own estate and each is responsible for his or her own debts. On dissolution of the marriage by death or divorce, the value of the assets obtained during the marriage, or the accrual, will be shared equally. The accrual is determined by calculating the difference in the net starting value and the net final value of the estate of each spouse with the exclusion of inheritances, legacies and donations. On dissolution of the marriage the value of the difference in the accrual of the two estates, taking inflation into account, is then divided equally.
[With due acknowledgement to the Law Society of South Africa]

ANTE NUPTIAL CONTRACT: A contract entered into to regulate whether a marriage will be out of community of property with/without the accrual system. An ante nuptial contract must be signed by the persons entering into a marriage, two witnesses and a notary public, and it must be registered in the Deeds Registries office within the prescribed time period.

MARRIAGE IN COMMUNITY OF PROPERTY: There is one estate between a husband and a wife. Property and debts acquired prior to or during the marriage are shared equally in undivided shares (50%). Both spouses are jointly liable to creditors. This marital regime automatically comes into existence unless another regime is selected.

MARRIAGE OFFICER: A person who is authorised to conclude a marriage between two persons, such as ministers of a religion or a person who is appointed as a marriage officer by the Minister of Home Affairs.

Disclaimer.

LegalWise has tried to include accurate and up to date information in this brochure however, it makes no representations and gives no warranties about the accuracy or suitability of the information contained in the brochure. The information contained in this brochure is not intended to be a definitive analysis of any specific legal topic nor must it be construed as legal advice. Professional legal advice should be taken from LegalWise or an attorney before any course of action is pursued.

Under no circumstances whatsoever shall LegalWise be liable for any direct or consequential damages whether in contract or in delict arising out of or in connection with the use of information available from the brochures.