



ASSOCIATION OF MUSLIM ACCOUNTANTS & LAWYERS OF SOUTH AFRICA

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AMAL's Statement on the Minister of Home Affairs' Announcement on Muslim Marriage Registration

AMAL refers to the Minister of Home Affairs' recent announcement allowing for the registration of Muslim marriages, which will be classified as "Muslim marriage" on the marriage certificate. We commend the government's ongoing efforts toward the recognition and regulation of the rights associated with Muslim marriages in South Africa. AMAL is committed to the recognition and regulation of the consequences of Muslim marriages in South Africa.

Following the announcement, there has been significant public interest and many calls for clarification. To address these queries, AMAL provides the following guidance:

- Validity of Nikahs:** Nikahs conducted by Imams or other qualified individuals are valid Muslim marriages in terms of Islamic Law.
- Options for Marriage Registration:** Muslim couples have the option to register their marriage under one of the existing South African marriage statutes, each offering distinct marital property regimes:
 - Marriage Act 25 of 1961:** Couples may choose a marital regime, such as In Community of Property, Out of Community of Property with accrual, or Out of Community of Property without accrual. Without an ante-nuptial contract, the default regime of In Community of Property applies.
 - Recognition of Customary Marriages Act 120 of 1998:** This Act requires that a marriage be negotiated and celebrated in accordance with customary law, primarily designed for African customary marriages. If Muslim couples wish to register under this Act, they must meet its specific requirements, and, by default, the marital property regime will be In Community of Property.
- Status of Newly Registered Muslim Marriages:** Based on the Minister's announcement and subsequent communications, the implications for Muslim marriages are as follows:
 - The marriage certificate with the "Muslim marriage" classification is issued under the Marriage Act, alluding to its recognition as a civil marriage.
 - Couples with existing registered marriages following a nikah may amend their certificates to indicate the marriage type as "Muslim".
 - Legally, marriages registered in this way are governed by the Marriage Act. Unless an ante-nuptial contract is in place, the default marital regime will be In Community of Property.

In light of these clarifications, AMAL advises Muslim couples to carefully consider the implications of registration and to seek guidance before proceeding with marriage registration under the new options.

Munirah Osman

Chair: AMAL Marriage Committee

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