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No. 29441

THE PRESIDENCY

No. 1208

30 November 2006

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 17 of 2006: Civil Union Act, 2006.

IHHOVISI LIKAMONGAMELI

Ino. 1208

30 November 2006

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 17 ka-2006: Umthetho wokuHlanganiswa kwaBantu ngoko-Buhlobo ka-2006.

*(English text signed by the President.)
(Assented to 29 November 2006.)*

ACT

To provide for the solemnisation of civil unions, by way of either a marriage or civil partnership; the legal consequences of civil unions; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 9(1) of the Constitution of the Republic of South Africa, 1996, provides that everyone is equal before the law and has the right to equal protection and benefit of the law;

AND WHEREAS section 9(3) of the Constitution provides that the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth;

AND WHEREAS section 10 of the Constitution provides that everyone has inherent dignity and the right to have their dignity respected and protected;

AND WHEREAS section 15(1) of the Constitution provides that everyone has the right to freedom of conscience, religion, thought, belief and opinion;

AND WHEREAS the rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom;

AND NOTING that the family law dispensation as it existed after the commencement of the Constitution did not provide for same-sex couples to enjoy the status and the benefits coupled with the responsibilities that marriage accords to opposite-sex couples,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—

“**civil union**” means the voluntary union of two persons who are both 18 years of age or older, which is solemnised and registered by way of either a marriage or a civil partnership, in accordance with the procedures prescribed in this Act, to the exclusion, while it lasts, of all others; 5

*(English text signed by the President.)
(Assented to 29 November 2006.)*

UMTHETHO

Ukuhlinzekela ukuhlanganiswa kwabantu ngokusemthethweni, ngokomshado noma ngokobuhlobo obusemthethweni; imiphumela yokuphatelene nomthetho uma kuhlanguaniswa abantu ngokusemthethweni; kanye nokuhlinzekela okunye okuhambisana nako.

ISINGENISO

NJENGOKUBA isigaba 9(1) soMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996, sithi wonke umuntu uyalingana ebusweni bomthetho futhi unelungelo lokuvikeleka nokuzuza ngokulinganayo emthethweni;

NANJENGOKUBA isigaba 9(3) soMthethosisekelo sithi umbuso ungebandlulule ngokungenabuqiniso ngokuqondile nangokugwegwesa noma ubani nganoma yiziphi izizathu, ezibandakanya ubuhlanga, ubulili, ezocansi, ukukhulelwa, isimo sokushada, imvelaphi ngokosiko nangokwenhlalo, ibala, azibandakanya nabo ngokobulili, ubungako ngokweminyaka, ukukhubazeka, ukholo, unembeza, usiko, ulimi nokuzalwa;

NANJENGOKUBA isigaba 10 soMthethosisekelo sithi wonke umuntu uzalwa enesithunzi nelungelo lokuhlonishwa nokuvikeleka kwesithunzi sakhe;

NANJENGOKUBA isigaba 15(1) soMthethosisekelo sithi wonke umuntu unelungelo lenkululeko kanembeza, yenkolo, yokucabanga, yenkolelo kanye neyemibono;

NANJENGOKUBA amalungelo akuMthethosivivinywa waMalungelo engaba nomkhawulo ngokuhambisana nomthetho wokusetshenziswa kwawo kufinyelela ekutheni umkhawulo unesizathu esizwakalayo nesisekelekayo emphakathini ovulelekile nokhululekile kuncike esithunzini somuntu, ekulinganeni nasenkululekweni;

NANGOKUQAPHELA ukuthi uhlelo lokusebenza komthetho wezomndeni emva kokuqala kokusebenza koMthethosisekelo akuzange kusihlinzekele isimo sobudlelwano bezithandani eziwubulili obubodwa ukuthi zithole ukuhlonipheka nemihlomulo etholakala ngokuhambisana nemithwalo okuvunyelwene ngayo ekuhlalisaneni kwababobulili obungafani,

NGAKHO-KE makumiswe yiPhalamende leRiphabhuliki yaseNingizimu Afrika, njengokulandelayo:—

Incazelo yamagama

1. Kulo Mthetho, ngaphandle-ke uma umquondo usho okunye—
“ukuhlanganiswa kwabantu ngokobuhlobo” kusho ukuhlanganyela ngokuzikhethele kwabantu ababili abaneminyaka eyi-18 noma ngaphezulu, okuhlanganiswa bese kubhaliswa ngendlela yomshado noma yobuhlobo obusemthethweni, ngokwenqubo ebekwe kulo Mthetho okuwubuhlobo obungafaki abanye abantu, ngesikhathi ubuhlobo lobo buqhubeka;

- “**civil union partner**” means a spouse in a marriage or a partner in a civil partnership, as the case may be, concluded in terms of this Act;
- “**Customary Marriages Act**” means the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998);
- “**Identification Act**” means the Identification Act, 1997 (Act No. 68 of 1997); 5
- “**Marriage Act**” means the Marriage Act, 1961 (Act No. 25 of 1961);
- “**marriage officer**” means—
- (a) a marriage officer ex officio or so designated by virtue of section 2 of the Marriage Act; or
- (b) any minister of religion, or any person holding a responsible position in any religious denomination or organisation, designated as marriage officers under section 5 of this Act; 10
- “**Minister**” means the Cabinet member responsible for the administration of Home Affairs;
- “**prescribed**” means prescribed by this Act or by regulation made under this Act; 15
- and
- “**this Act**” includes the regulations.

Objectives of Act

2. The objectives of this Act are—
- (a) to regulate the solemnisation and registration of civil unions, by way of either a marriage or a civil partnership; and 20
- (b) to provide for the legal consequences of the solemnisation and registration of civil unions.

Relationships to which Act applies

3. This Act applies to civil union partners joined in a civil union. 25

Solemnisation of civil union

4. (1) A marriage officer may solemnise a civil union in accordance with the provisions of this Act.
- (2) Subject to this Act, a marriage officer has all the powers, responsibilities and duties, as conferred upon him or her under the Marriage Act, to solemnise a civil union. 30

Designation of ministers of religion and other persons attached to religious denomination or organisation as marriage officers

5. (1) Any religious denomination or organisation may apply in writing to the Minister to be designated as a religious organisation that may solemnise marriages in terms of this Act. 35
- (2) The Minister may designate such a religious denomination or organisation as a religious institution that may solemnise marriages under this Act, and must, from time to time, publish particulars of all religious institutions so designated in the *Gazette*.
- (3) The Minister may, on request of any designated religious institution referred to in subsection (2), revoke the designation under that subsection and must publish such revocation in the *Gazette*. 40
- (4) The Minister and any officer in the public service authorised thereto by him or her may designate, upon receiving a written request from any minister of religion or any person holding a responsible position in any designated religious institution to be, as long as he or she is such a minister or occupies such position, a marriage officer for the purpose of solemnising marriages, in accordance with this Act, and according to the rites of that religion. 45

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- “ohlanganiswe nomunye ngokusemthethweni” kusho lowo ohlanganyele ngokomshado noma ngokobuhlobo obusemthethweni, lokho okuyikona, okuphuthulwe ngokwemigomo yalo Mthetho;
- “uMthetho wezeMishado YesiNtu” kusho ukwemukelwa koMthetho weMishado YesiNtu, 1998 (uMthetho onguNo. 120 ka-1998); 5
- “UMthetho Wokuzazisa” kusho uMthetho Wokuzazisa, 1997 (uMthetho onguNo. 68 ka-1997);
- “uMthetho wezeMishado” kusho uMthetho wezeMishado, 1961 (uMthetho onguNo. 25 ka-1961);
- “umshadisi” kusho— 10
- (a) umshadisi ngokwesikhundla sakhe kumbe obekiwe ngokwesigaba 2 soMthetho wezeMishado; kumbe
- (b) umfundisi wokholo, nanoma yimuphi umuntu osesikhundleni esihloniphekile, kunoma yiluphi ukholo kumbe inhlango, obekwe njengomshadisi ngaphansi kwegaba 5 salo Mthetho; 15
- “uNgqongqoshe” kusho ilungu leKhabhinethi elisingethe ukusebenza kwamahhovisi oMnyango Wezasekhaya;
- “okusemthethweni” kusho okubekwe yilo Mthetho ngokwenqubomgomo yalo Mthetho; futhi
- “lo Mthetho” ubandakanya izimiso. 20

Okuhlosiwe ngoMthetho**2. Izinhlalo zalo Mthetho yilezi—**

- (a) ukulawula ukuhlanganiswa nokubhaliswa kobuhlobo babantu ngendlela yomshado noma yobuhlobo obusemthethweni; futhi
- (b) nokuhlinzekela imiphumela yokuphathelene nomthetho uma kuhlanganiswa abantu ngokusemthethweni kanye nokubhaliswa kwabantu abahlanganiswe ngokobuhlobo. 25

Ubudlelwano okusebenza kubo uMthetho

3. Lo Mthetho usebenza kubuhlobo abahlanganiswe ngokusemthethweni ngokobuhlobo babantu. 30

Ukuhlanganiswa kwabantu ngokusemthethweni

4. (1) Umshadisi angahlanganisa abantu ngokusemthethweni ngokulandela imigomo yalo Mthetho.
- (2) Ngokuhambisana nalo Mthetho, umshadisi unawo wonke amandla, imithwalo ayinikeziwe nemisebenzi ngaphansi koMthetho wezeMishado, ukuba ahlanganise abantu ngokusemthethweni ngokobuhlobo. 35

Ukubekwa kwabefundisi bokholo nabanye abantu abahlangene nezikhungo zezenkolo noma izinhlangano njengabashadisi

5. (1) Noma yiliphi ibandla kumbe inhlango ingabhalela uNgqongqoshe ifake isicelo sokubekwa ibe yibandla elingahlanganisa abantu emshadweni ngokwalo Mthetho. 40

(2) UNgqongqoshe angalinikeza amandla ibandla kumbe inhlango ukuthi ikwazi ukuhlanganisa abantu ngokomshado ngaphansi kwalo Mthetho, futhi, kufanele kuthi njalo emva kwezikhathi ezithize, ashicilele imininingwane yazo zonke izikhungo ezinikwe la mandla *kwiGazethi*. 45

(3) UNgqongqoshe, ngokucelwa yinoma yisiphi isikhungo sezenkolo okukhulunywe ngaso kwisigatshana (2), angasephuca amandla ngaphansi kwaleso sigaba bese eshicilela lokho *kwiGazethi*.

(4) UNgqongqoshe kanye nanoma isiphi isiphathimandla sasemnyangweni kahlumeni esigunyaswe nguye singanikeza amandla okuhlanganisa abantu ngokomshado, umfundisi wanoma iyiphi inkolo uma efake isicelo esibhalwe phansi segunya lokuba ngumshadisi, inqobo nje uma engumfundisi noma enesikhundla esithize kulelo bandla, ngokwalo Mthetho, nangokosiko-mpilo lwalolo hlobo lwezenkolo. 50

(5) Every designation of a person as a marriage officer under subsection (4) shall be by written instrument and the date as from which it shall have effect and any limitation to which it is subject shall be specified in such instrument.

(6) The Minister and any officer in the public service authorised thereto by him or her may, upon receiving a written request from a person designated as a marriage officer under subsection (4), revoke, in writing, the designation of such person as a marriage officer for purposes of solemnising marriages under this Act. 5

Marriage officer not compelled to solemnise civil union

6. A marriage officer, other than a marriage officer referred to in section 5, may in writing inform the Minister that he or she objects on the ground of conscience, religion and belief to solemnising a civil union between persons of the same sex, whereupon that marriage officer shall not be compelled to solemnise such civil union. 10

Prohibition of solemnisation of civil union without production of identity document or prescribed affidavit

7. No marriage officer may solemnise a civil union unless— 15
- (a) each of the parties in question produces to the marriage officer his or her identity document issued under the provisions of the Identification Act;
 - (b) each of such parties furnishes to the marriage officer the prescribed affidavit; or
 - (c) one of such parties produces his or her identity document referred to in paragraph (a) to the marriage officer and the other furnishes to the marriage officer the affidavit referred to in paragraph (b). 20

Requirements for solemnisation and registration of civil union

8. (1) A person may only be a spouse or partner in one marriage or civil partnership, as the case may be, at any given time. 25

(2) A person in a civil union may not conclude a marriage under the Marriage Act or the Customary Marriages Act.

(3) A person who is married under the Marriage Act or the Customary Marriages Act may not register a civil union.

(4) A prospective civil union partner who has previously been married under the Marriage Act or Customary Marriages Act or registered as a spouse in a marriage or a partner in a civil partnership under this Act, must present a certified copy of the divorce order, or death certificate of the former spouse or partner, as the case may be, to the marriage officer as proof that the previous marriage or civil union has been terminated. 30

(5) The marriage officer may not proceed with the solemnisation and registration of the civil union unless in possession of the relevant documentation referred to in subsection (4). 35

(6) A civil union may only be registered by prospective civil union partners who would, apart from the fact that they are of the same sex, not be prohibited by law from concluding a marriage under the Marriage Act or Customary Marriages Act. 40

Objections to civil union

9. (1) Any person desiring to raise any objection to any proposed civil union must lodge such objection in writing with the marriage officer who is to solemnise such civil union.

(2) Upon receipt of any such objection the marriage officer concerned must inquire into the grounds of the objection and if he or she is satisfied that there is no lawful impediment to the proposed civil union, he or she may solemnise the civil union. 45

(3) If he or she is not so satisfied, he or she must refuse to solemnise the civil union and record the reasons for such refusal in writing.

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(5) Onke amandla omshadisi ngaphansi kwesigatshana (4) kufanele abhalwe phansi futhi kufakwe nosuku lokuqala kwalawo mandla kufakwe nemikhawulo abekelwe yona kulowo mbhalo.

(6) UNgqongqoshe kanye nomshadisi wakwahulumeni ogunyazwe nguNgqongqoshe, uma ethola isicelo esibhalwe phansi somuntu ogunyaziwe ngaphansi kwesigatshana (4), angawaqeda amandla alowo muntu okushadisa ngokubhala phansi maqondana nokuthi ahlanganise abantu ngokomshado ngaphansi kwalo Mthetho. 5

Umshadisi akaphoqiwe ukhlanganisa abantu abahlobene ngokomshado

6. Umshadisi, ngaphandle kwalowo okukhulunywe ngaye esigabeni 5, angabhalela uNgqongqoshe amazise ukuthi akahambisani nokhlanganiswa ngokomshado kwabantu ababili bobulili obufanayo ngenxa yalokho okubandakanya unembeza, inkolo noma inkolelo, lapho lowo mshadisi engenakukwazi ukhlanganisa lowo mshado. 10

Ukungavumeleki kokhlanganiswa kwabantu ngokomshado ngaphandle kokukhishwa komazisi noma incwadi efunjelwe

7. Akekho umshadisi ovumeleke ukhlanganisa abantu ngokomshado ngaphandle uma— 15

- (a) lowo nalowo muntu ohlanganiswayo ekhipha amazisi wakhe awuthola ngaphansi kwemigomo yoMthetho Wokuzazisa;
- (b) lowo nalowo muntu enikeza umshadisi isitatimende esifungelwe esisemthethweni; noma 20
- (c) omunye wabafuna ukhlanganiswa ekhipha amazisi okukhulunywa ngawo esigabeni (a) awukhombise umshadisi bese lona omunye anikeze umshadisi isitatimende esifungelwe okukhulunywe ngaso kwisigaba (b).

Izidingongqangi ekhlanganisweni nasekubhaliseni umshado

8. (1) Umuntu angaba yilowo okushadwe naye noma umhlobo emshadweni noma ebuhlobeni obusemthethweni nomuntu oyedwa, lokho nje okuyikona, nganoma isiphi isikhathi. 25

(2) Umuntu oshadile akakwazi ukuphuthula umshado ngaphansi koMthetho wezeMishado noma uMthetho wezeMishado YesiNtu.

(3) Umuntu oshade ngaphansi koMthetho wezeMishado noma ngaphansi koMthetho wezeMishado YesiNtu akakwazi ukubhalisa umshado. 30

(4) Umuntu ozohlanganiswa nomunye ngokusemthethweni oseke washada ngaphambilini ngaphansi koMthetho wezeMishado noma ngaphansi koMthetho wezeMishado YesiNtu kumbe obhaliswe njengokushadwe naye kumbe ongumhlobo ngokusemthethweni ngokwalo Mthetho, kumele akhiphe ikhophi efakazelwe yokudivosa kumbe isitifiketi sokufa salowo abeshade naye kumbe obengumhlobo wakhe, lokho nje okuyikona, anikeze umshadisi njengobufakazi bokuthi lowo mshado noma ubudlelwano abusekho. 35

(5) Umshadisi angeqhubeke nomcimbi wokubhalisa ubuhlobo babantu ngaphandle kokuthi aqale anikezwe le miqule okukhulunywe ngayo kwisigatshana (4). 40

(6) Ubuhlobo babantu bungabhaliswa kuphela ngabafuna ukhlanganiswa uma, ngaphandle kokuthi bangabobulili obufanayo, kungekho okunye okubavimbayo mayelana nezomthetho, ukuthi bashadiswe ngaphansi koMthetho wezeMishado noma uMthetho wezeMishado YesiNtu.

Ukunqatshwa kokhlanganiswa kwabantu ngokobuhlobo 45

9. (1) Noma ubani ofuna ukuphakamisa isiphikiso kulabo abafuna ukhlanganiswa njengabahlobo kufanele abhalele umshadisi ozohlanganisa lobo buhlobo ngokusemthethweni.

(2) Ekutholeni leso siphikiso umshadisi oqondene nale ndaba kumele afune isizathu saloko kuphikisa bese kuthi uma esegculisekile ukuthi akukho sivimbezelo esisemthethweni kulabo abafuna ukhlanganiswa, ahlanganise labo bantu ngokomshado. 50

(3) Uma engagculisekile kufanele anqabe ukhlanganisa abantu ngokomshado futhi abhale phansi izizathu zalokho.

Time and place for and presence of parties and witnesses at solemnisation and registration of civil union

10. (1) A marriage officer may solemnise and register a civil union at any time on any day of the week, but is not obliged to solemnise a civil union at any other time than between the hours of eight in the morning and four in the afternoon. 5

(2) A marriage officer must solemnise and register a civil union in a public office or private dwelling-house or on the premises used for such purposes by the marriage officer, with open doors and in the presence of the parties themselves and at least two competent witnesses, but the foregoing provisions of this subsection do not prohibit a marriage officer to solemnise a civil union in any place other than a place mentioned herein, if the civil union must be solemnised in such other place by reason of the serious or longstanding illness of, or serious bodily injury to, one or both of the parties. 10

(3) No person is competent to enter into a civil union through any other person acting as his or her representative.

Formula for solemnisation of marriage or civil partnership

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11. (1) A marriage officer must inquire from the parties appearing before him or her whether their civil union should be known as a marriage or a civil partnership and must thereupon proceed by solemnising the civil union in accordance with the provisions of this section.

(2) In solemnising any civil union, the marriage officer must put the following questions to each of the parties separately, and each of the parties must reply thereto in the affirmative: 20

“Do you, A.B., declare that as far as you know there is no lawful impediment to your proposed marriage/civil partnership with C.D. here present, and that you call all here present to witness that you take C.D. as your lawful spouse/civil partner?”, 25
and thereupon the parties must give each other the right hand and the marriage officer concerned must declare the marriage or civil partnership, as the case may be, solemnised in the following words:

“I declare that A.B. and C.D. here present have been lawfully joined in a marriage/civil partnership.”. 30

(3) If the provisions of this section relating to the questions to be put to each of the parties separately or to the declaration whereby the marriage or civil partnership shall be declared to be solemnised, or to the requirement that the parties must give each other the right hand, have not been strictly complied with owing to—

(a) an error, omission or oversight committed in good faith by the marriage officer; 35

(b) an error, omission or oversight committed in good faith by the parties; or

(c) the physical disability of one or both of the parties,

and such civil union has in every other respect been solemnised in accordance with the provisions of this Act, that civil union shall, provided there was no other lawful impediment thereto, be valid and binding. 40

Registration of civil union

12. (1) The prospective civil union partners must individually and in writing declare their willingness to enter into the civil union with one another by signing the prescribed document in the presence of two witnesses. 45

(2) The marriage officer and the two witnesses must sign the prescribed document to certify that the declaration made in terms of section 11(2) was made in their presence.

(3) The marriage officer must issue the partners to the civil union with a registration certificate stating that they have, under this Act, entered into a marriage or a civil partnership, depending on the decision made by the parties in terms of section 11(1). 50

(4) The certificate contemplated in subsection (3) is *prima facie* proof that a valid civil union exists between the partners referred to in the certificate.

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Isikhathi nendawo kanye nokubakhona kwabazoshada kanye nofakazi emcimbini wokuhlanganiswa nokubhaliswa komshado

10. (1) Umshadisi angawusingatha umcimbi futhi awubhalise nganoma yisiphi isikhathi nanganoma yiluphi usuku evikini, kepha akaphoqelekile ukusingatha umcimbi ngezinye izikhathi ngaphandle kwesikhathi esiphakathi kwehora le-8 ekuseni nehora le-4 ntambama. 5

(2) Umshadisi kufanele ahlanganise futhi abhalise umshado ehhovisi lomphakathi kumbe ekhaya ngasese noma endaweni ebekelwe lowo msebenzi, kuvulwe iminyango futhi nabahlanganiswayo bekhona kanye nofakazi ababili abangafakaza, kepha le migomo engenhla kulesi sigatshana ayimvimbeli umshadisi ukuba ahlanganise abantu ngokomshado kunoma iyiphi enye indawo ngaphandle kwakulena ebekiwe lapha, uma ubuhlobo lobo kufanele buhlanganiselwe kwenye indawo ngaphandle kwehekiwe lapha, noma uma ubuhlobo kufanele buhlanganiselwe kwenye indawo ngenxa yokugula okubi kumbe osekuqhubeka isikhathi eside, kumbe uma kunokulimala kornunye, kumbe kwabo bobalili abafuna ukuhlanganiswa. 15

(3) Akekho umuntu ovumelekile ukwenza isivumelwano somshado ngokuba amelwe ngomunye umuntu angabi bikho yena.

Indlela yokuhlanganiswa kwabantu ngokomshado noma ngokobudlelwano obuhambisana nezivumelwano ezithize

11. (1) Umshadisi kufanele aqale ababuze labo abami phambi kwakhe ukuthi bafuna ubuhlobo babo bubizwe ngomshado noma ngobuhlobo obusemthethweni bese eqhubeka nokubahlanganisa ngokulandela imigomo yalesi sigaba. 20

(2) Ekuhlanganiseni umshado ngokusemthethweni, umshadisi kumele abuze le mibuzo elandelayo kwabashadayo ngezikhathi ezihlukene, kanti bobabili kufanele bavume: 25

“Wena, A.B., uyafunga yini ukuthi ngokwazi kwakho akukho okusemthethweni okuyisivimbezelo sokuthi ungakwazi ukuba ushade/ ube nobuhlobo obusemthethweni no C.D. okhona lapha phambi kwakho naphambi kwabo abantu abakhona lapha futhi obamemayo ukuthi babe ngofakazi bokuthi uyamthatha u-C.D. abe ngowakho ngokomshado/umhlobo wakho osemthethweni?”, emva kwalokho, abashadayo kufanele babambane ngezandla zokudla umshadisi bese ememezela ukuthi umshado/ ubuhlobo obusemthethweni sebuhlanganisiwe ngala mazwi alandelayo: 30

“Ngiyamemezela ukuthi u-A.B no-C.D abakhona lapha sebehlanganisiwe ngokomshado/ ngokobuhlobo obusemthethweni.”. 35

(3) Uma okushiwo yilesi sigaba okumaqondana nokubuzwa kwemibuzo kulowo nalowo oshadayo ngamunye kumbe isimemezelo sokuthi umshado/ ubuhlobo obusemthethweni buzoba ngosebuhlanganisiwe kumbe isidingongqangi sokuthi abashadayo babambane ngezandla zokudla kungazange kulandelwe ngokuphelele ngenxa— 40

(a) yephutha, ukunganaki kumbe ukukhohlwa ngokungenhloso kukamshadisi;

(b) yephutha, ukunganaki kumbe ukukhohlwa ngokungenhloso kwabashadayo; kumbe

(c) yokukhubazeka komunye kumbe kwabo bobabili abashadayo,

kepha lowo mshado ube uqhutshwe ngokwemigomo yalo Mthetho, lowo mshado, inqobo nje uma kungekho okuyisivimbezelo emthethweni, uyoba ngolungile noyisibophezelo. 45

Ukubhaliswa komshado ngokusemthethweni

12. (1) Abazoshada kumele ngamunye bafunge ngokubhala phansi ukuthi bayathanda ukushada nomunye ngokusayina umqulu osemthethweni phambi kofakazi ababili. 50

(2) Umshadisi kanye nofakazi ababili kufanele nabo basayine umqulu osemthethweni ukufakaza ukuthi isifungo esenziwe ngokwesigaba 11(2) senziwe phambi kwabo.

(3) Umshadisi kufanele anikeze abashadayo isitifiketi esikhombisa ukuthi sebeshadile noma sebenobuhlobo obusemthethweni ngaphansi kwalo Mthetho, kuye ngesinqumo esenziwe ngabashadi ngokwesigaba 11(1). 55

(4) Isitifiketi okukhulunywe ngaso esigatshaneni (3), ukukhishwa kwaso *kungubufakazi obungephikiswe* bokuthi kunobuhlobo phakathi kwababili ababalulwe esitifiketini.

(5) Each marriage officer must keep a record of all civil unions conducted by him or her.

(6) The marriage officer must transmit the civil union register and records concerned to the official in the public service with the delegated responsibility for the population register in the area in question. 5

(7) Upon receipt of the said register the official referred to in subsection (6) must cause the particulars of the civil union concerned to be included in the population register in accordance with the provisions of section 8(e) of the Identification Act.

Legal consequences of civil union

13. (1) The legal consequences of a marriage contemplated in the Marriage Act apply, 10 with such changes as may be required by the context, to a civil union.

(2) With the exception of the Marriage Act and the Customary Marriages Act, any reference to—

(a) marriage in any other law, including the common law, includes, with such changes as may be required by the context, a civil union; and 15

(b) husband, wife or spouse in any other law, including the common law, includes a civil union partner.

Offences and penalties

14. (1) Any marriage officer who purports to solemnise a civil union which he or she is not authorised under this Act to solemnise or which to his or her knowledge is legally prohibited, and any person not being a marriage officer who purports to solemnise a civil union, shall be guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment for a period not exceeding 12 months. 20

(2) Any marriage officer who demands or receives any fee, gift or reward for or by reason of anything done by him or her as marriage officer in terms of this Act, shall be guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment for a period not exceeding six months. 25

(3) Any marriage officer who knowingly solemnises a civil union in contravention of the provisions of this Act, shall be guilty of an offence and liable on conviction to a fine or, in default of payment, to imprisonment for a period not exceeding six months. 30

(4) Any person who, for the purposes of this Act, makes any false representation or false statement knowing it to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

Regulations

15. (1) The Minister may make regulations relating to— 35

(a) the form and content of certificates, notices, affidavits and declarations for the purposes of this Act;

(b) the fees payable for any certificate issued or any other act performed in terms of this Act; and

(c) generally, any matter which by this Act is required or permitted to be prescribed or which he or she considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved or that the provisions of this Act may be effectively administered. 40

(2) Such regulations may prescribe penalties for a contravention thereof, of—

(a) a fine not exceeding the amount that, in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), may be imposed as an alternative to imprisonment for a period of six months; or 45

(b) in lieu of payment of a fine referred to in paragraph (a), imprisonment for a period not exceeding six months.

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(5) Lowo nalowo mshadisi kufanele agcine amarekhodi ayo yonke imishado ehlanganiswe nguyena.

(6) Umshadisi kumele ahambise irejista kanye namarekhodi lawo kwisiphathimandla emnyangweni kahulumeni esinikezwe umsebenzi wokubhalisa abantu endaweni leyo akuyo.

(7) Emva kokuba isiphathimandla okukhulunywe ngaso esigatshaneni 6 sesithole leyo rejista kumele sifake lowo mshado kwirejista yabantu ngokwemigomo yesigaba 8(e) soMthetho wokuZazisa.

Imiphumela yokuphathelene nomthetho uma kuhlanguaniswa abantu ngokusemthethweni

13. (1) Imiphumela yokuphathelene nomthetho uma kuhlanguaniswa abantu ngokusemthethweni okukhulunywe ngakho eMthethweni wezeMishado iyasebenza ekuhlanguaniseni kwabantu ngokobuhlobo, ngaphandle uma kunoshintsho oluhambisana nengqikithi.

(2) Ngaphandle kwaseMthethweni wezeMishado noMthetho wezeMishado YesiNtu, okuthinta—

(a) umshado ngaphansi kwanoma yimuphi umthetho, obandakanya nomshado ongabhaliwe, ngaphandle uma kungaba noshintsho ngenxa yokuhluka kwengqikithi, ufaka nobuhlobo obusemthethweni; futhi

(b) umyeni, unkosikazi kumbe okushadwe naye ngaphansi kwanoma yimuphi umthetho, obandakanya nomshado ongabhaliwe, ufaka nohlanganiswe ngokobuhlobo obusemthethweni.

Amacala nezinhlawulo

14. (1) Noma isiphi isiphathimandla esithi sihlanguanisa imishado esingagunyaziwe ngaphansi kwalo Mthetho ukuhlanguanisa kumbe uma ngokwazi kwaso singavumelekile, futhi noma ubani othi engesiyena umshadisi kepha ahlanguanise abashadayo, uyobekwa icala, uma limlahla ahlawuliswe imali, uma engayikhokhi, aboshwe isikhathi esingeqile ezinyangeni eziyi-12.

(2) Umshadisi ofuna kumbe owemukela inkokhelo, isipho kumbe umvuzo ngenxa yanoma yini ayenzile njengomshadisi ngokwalo Mthetho uyobekwa icala, uma limlahla ahlawuliswe imali, uma engayikhokhi, aboshwe isikhathi esingeqile ezinyangeni eziyisithupha.

(3) Noma imuphi umshadisi ohlanguanisa umshado ebe azi ukuthi uphula imigomo yalo Mthetho, uyobekwa icala uma limlahla ahlawuliswe imali, uma engayikhokhi, aboshwe isikhathi esiyizinyanga eziyisithupha.

(4) Noma ubani ngokwalo Mthetho, owethula ngokungesilo iqiniso noma okhuluma into engekho, azi kahle ukuthi ingamanga, uyobekwa icala, uma limlahla uyogwetshwa ngesigwebo esifanele ezinhlawulweni ezibekwe ngumthetho kwabaqamba amanga bebe befungile.

Izimiso

15. (1) UNgqongqoshe angenza izimiso maqondana—

(a) nefomu nemibhalo yezitifiketi, izaziso, izitatimende ezifungelwe nokufunga maqondana nalo Mthetho;

(b) nezimali zokukhokhela izitifiketi ezikhishiwe kumbe yinoma ikuphi okunye okwenziwe ngokwalo Mthetho; kanti futhi

(c) nanoma yini edingekayo nevumelekile ukuthi yenziwe kumbe abona kubalulekile ukuba yenziwe maqondana nalo Mthetho ingenziwa ukuze imigomo yalo Mthetho ikwazi ukuthi igcinwe ngempumelelo.

(2) Lezo zimiso zinganquma inhlawulo eyotholakala uma zephuliwe—

(a) imali yenhlawulo engevile enanini, ngokoMthetho Wokulungiswa Kwezimali Zenhlawulo, 1991 (uMthetho onguNo. 101 ka-1991), engakhishwa esikhundleni sokuthola isigwebo sokudonsa ejele isikhathi esingangezinyanga eziyisithupha; noma

(b) esikhundleni sokukhokha inhlawulo okukhulunywe ngayo esigabeni (a), ukudonsa ejele isikhathi esingeqile ezinyangeni eziyisithupha.

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(3) Any regulation made under the Marriage Act shall, in the absence of a regulation made under subsection (1), apply to the extent that it is practicable and necessary, in order to promote or facilitate the application of this Act: Provided that this subsection shall lapse after a period of one year from the date of the commencement of this Act.

Short title and commencement

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16. This Act is called the Civil Union Act, 2006, and comes into operation on 30 November 2006 or an earlier date fixed by the President by proclamation in the *Gazette*.

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(3) Noma isiphi isimiso esibekwe ngaphansi koMthetho wezeMishado, uma singekho isimiso esenziwe esigatshaneni (1), siyosebenza ngendlela esebenza kahle futhi enesidingo, ukuze kugqugquzelwe noma kwenziwe kube lula ukusebenza kwalo Mthetho: Inqobo nje uma lesi sigatshana siyoshabalala ngemva kwesikhathi esingangonyaka owodwa kusukela ngosuku lokuqala kokusebenza kwalo Mthetho. 5

Isihloko esifishane nokuqala kokusebenza koMthetho

16. Lo Mthetho ubizwa ngoMthetho wokuHlanganiswa kwaBantu ngokoBuhlobo ka-2006, futhi uyoqala ukusebenza mhla zi-30 kuLwezi 2006 noma ngosuku olungaphambili oluyomiswa nguMengameli ngesimemezelo *kwiGazethi*.