

BASIC FACTS ON THE MARRIED PERSONS EQUALITY ACT



FACT SHEET

Gender Research & Advocacy Project
LEGAL ASSISTANCE CENTRE
Windhoek, Namibia

What is the Married Persons Equality Act (MPEA)?

The MPEA removes sexual discrimination from civil marriages. Married equality means that husbands and wives have equal power to make decisions.

Property and marriage

In community of property:

- Everything a husband and wife had before they were married becomes part of the joint estate. Everything earned or bought once married also becomes part of the joint estate. Each partner owns half of the joint estate. If one partner has a debt, money from the joint estate can be used to pay this debt.
- Both partners must agree to sell, give away or borrow money or property. Both partners must agree if they want to take out a large loan.
- If the couple divorce or if one partner dies, the property will be split in half.



Out of community of property:

- Everything a husband and wife had before they were married remains their own. Once they are married they keep their own earnings. They are each responsible for their own loans and debts.
- The husband or the wife can buy or sell their belongings without asking the other person. They can each take out a loan without asking the other person.
- Not all costs are separate. The cost of household needs should be shared because a husband and a wife have a duty to maintain each other.
- If a couple want a divorce, they each keep their own property and anything they bought together is divided in half. If one partner dies, it is only that partner's separate property which goes to the heirs.



Which system of marital property applies?

Most civil marriages in Namibia are *in community of property*. If you want to be married *out of community of property* you must make a contract before you are married and register it at the office of the Registrar of Deeds.

But if you live north of the old "Police Zone", in the areas known as Owamboland, Kavango and Caprivi, marriages that take place between "Africans" on or after 1 August 1950 are *out of community of property*.

If you want to be married *in community of property* you must make a contract with the marriage officer before the marriage takes place.

Marriage and children

The MPEA states that both parents are *joint custodians and equal guardians*. This means both parents can make

decisions about how their children are brought up. They do not have to consult each other on most decisions. But some decisions, such as deciding to put the child up for adoption or removing the child from Namibia, must be made together.

See the Legal Assistance Centre's Guide to the Married Persons Equality Act for more details.



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GUIDE TO THE MARRIED PERSONS EQUALITY ACT



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Namibia
2009