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GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 414.

4 Maart 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 3 van 1988: Wysigingswet op Huweliks- en Huweliksgoederereg, 1988.

No. 414.

4 March 1988

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

No. 3 of 1988: Marriage and Matrimonial Property Law Amendment Act, 1988.

Wet No. 3, 1988

WYSIGINGSWET OP HUWELIKS- EN HUWELIKSGOEDEREREG,
1988**ALGEMENE VERDUIDELIKENDE NOTA:**

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Om die huweliks- en huweliksgoederereg met betrekking tot sekere huwelike te wysig; en om voorsiening te maak vir aanleentheid wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 25 Februarie 1988.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 22 van
Wet 38 van 1927.

1. Artikel 22 van die Swart Administrasie Wet, 1927, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te ver- 5
vang:
“(1) 'n Man en 'n vrou tussen wie 'n gebruikelike ver-
binding bestaan, is bevoeg om 'n huwelik met mekaar
aan te gaan as die man nie ook 'n deelgenoot in 'n be-
staande gebruikelike verbinding met 'n ander vrou is 10
nie.”;
- (b) deur subartikel (2) deur die volgende subartikel te ver-
vang:
“(2) Behoudens subartikel (1) is geen persoon wat 'n
deelgenoot in 'n gebruikelike verbinding is, bevoeg om 15
'n huwelik aan te gaan gedurende die bestaan van daar-
die verbinding nie.”;
- (c) deur subartikel (3) deur die volgende subartikel te ver-
vang:
“(3) Geen huweliksbevestiger bevestig die huwelik 20
van 'n Swart man nie, tensy hy eers van hom 'n verkla-
ring verkry het met die strekking dat hy nie 'n deelge-
noot is in 'n gebruikelike verbinding met enige ander
vrou as die vrou met wie hy van voorneme is om te 25
trou nie.”;
- (d) deur subartikel (5) deur die volgende subartikel te ver-
vang:
“(5) 'n Swart man wat opsetlik 'n vals verklaring aan
'n huweliksbevestiger maak met betrekking tot die be-
staan al dan nie van 'n gebruikelike verbinding tussen 30
hom en enige vrou, is skuldig aan 'n misdryf en by skul-
digbevinding strafbaar met die strawwe wat regtens vir
meineed opgelê kan word.”;
- (e) deur subartikel (6) te skrap; en
- (f) deur subartikel (7) deur die volgende subartikel te ver- 35
vang:
“(7) Geen huwelik na die inwerkingtreding van hier-
die Wet maar voor die inwerkingtreding van die Wysi-
gingswet op Huweliks- en Huweliksgoederereg, 1988,

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GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the marriage and matrimonial property law with regard to certain marriages; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 25 February 1988.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

1. Section 22 of the Black Administration Act, 1927, is hereby amended—

Amendment of
section 22 of
Act 38 of 1927.

- 5 (a) by the substitution for subsection (1) of the following subsection:
 “(1) A man and a woman between whom a customary union subsists are competent to contract a marriage with each other if the man is not also a partner in a subsisting customary union with another woman.”;
- 10 (b) by the substitution for subsection (2) of the following subsection:
 “(2) Subject to subsection (1), no person who is a partner in a customary union shall be competent to contract a marriage during the subsistence of that union.”;
- 15 (c) by the substitution for subsection (3) of the following subsection:
 “(3) No marriage officer shall solemnize the marriage of a Black man unless he has first taken from him a declaration to the effect that he is not a partner in a customary union with any woman other than the one he intends marrying.”;
- 20 (d) by the substitution for subsection (5) of the following subsection:
 “(5) A Black man who wilfully makes a false declaration to a marriage officer with regard to the existence or not of a customary union between him and any woman, shall be guilty of an offence and liable on conviction to the penalties which may by law be imposed for perjury.”;
- 25 (e) by the deletion of subsection (6); and
- 30 (f) by the substitution for subsection (7) of the following subsection:
 “(7) No marriage contracted after the commencement of this Act but before the commencement of the Marriage and Matrimonial Property Law Amendment
- 35

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1988

aangegaan gedurende die bestaan van 'n gebruikelike verbinding tussen die man en 'n ander vrou **[dan]** as die eggenote, het enige invloed op die materiële regte van 'n deelgenoot in daardie verbinding of **[van]** 'n kind daaruit nie, en die weduwee van so 'n huwelik en die 5 kinders daaruit het geen groter regte teenoor die boedel van die oorlede eggenoot **[dan]** as wat sy of hulle sou gehad het as bedoelde huwelik 'n gebruikelike verbinding **[gewees]** was nie.”.

Wysiging van
artikel 7 van
Wet 70 van 1979,
soos gewysig deur
artikel 36 van
Wet 88 van 1984.

2. Artikel 7 van die Wet op Egskeiding, 1979, word hierby ge- 10
wysig—

(a) deur subartikel (3) deur die volgende subartikel te ver-
vang:

“(3) 'n Hof wat 'n egskeidingsbevel verleen ten op-
sigte van 'n huwelik buite gemeenskap van goed— 15

(a) wat voor die inwerkingtreding van die Wet op Hu-
weliksgoedere, 1984, gesluit is ingevolge huwe-
liksvoorwaardes waardeur gemeenskap van goed,
gemeenskap van wins en verlies en aanwasdeling
in enige vorm uitgesluit is; of 20

(b) wat voor die inwerkingtreding van die Wysig-
ingswet op Huweliks- en Huweliksgoederereg,
1988, gesluit is ingevolge artikel 22 (6) van die
Swart Administrasie Wet, 1927 (Wet No. 38 van
1927), soos dit bestaan het onmiddellik voor die 25
herroeping daarvan deur genoemde Wysigingswet
op Huweliks- en Huweliksgoederereg, 1988,

kan, behoudens die bepalings van subartikels (4), (5)
en (6), op aansoek van een van die partye by die huwe-
lik, by ontstentenis van 'n ooreenkoms tussen hulle be- 30
treffende die verdeling van hul bates, beveel dat dié
bates, of dié gedeelte van die bates, van die ander par-
ty wat die hof billik ag aan eersgenoemde party oorge-
dra word.”; en

(b) deur subartikel (5) deur die volgende subartikel te ver- 35
vang:

“(5) By die bepaling van die bates of die gedeelte
van die bates wat oorgedra moet word soos in subarti-
kel (3) beoog, neem die hof, benewens enige direkte of
indirekte bydrae deur die betrokke party tot die in- 40
standhouding of groei van die boedel van die ander
party gelewer soos in subartikel (4) beoog, ook in aan-
merking—

(a) die bestaande vermoëns en verpligtinge van die
partye, met inbegrip van enige verpligting wat 'n 45
eggenoot by 'n huwelik soos beoog in subartikel
(3) (b) van hierdie artikel ingevolge artikel 22 (7)
van die Swart Administrasie Wet, 1927 (Wet No.
38 van 1927), mag hê;

(b) enige skenking wat tydens die duur van die huwe- 50
lik deur die een party aan die ander gemaak is, of
wat kragtens die betrokke huweliksvoorwaardes
verskuldig en afdwingbaar is;

(c) enige bevel deur die hof kragtens artikel 9 van
hierdie Wet of kragtens enige ander wet gemaak 55
wat die vermoënsposisie van die partye raak; en

(d) enige ander faktor wat na die oordeel van die hof
in aanmerking geneem behoort te word.”.

Wysiging van
artikel 21 van
Wet 88 van 1984,
soos gewysig deur
artikel 1 van
Wet 91 van 1986.

3. Artikel 21 van die Wet op Huweliksgoedere, 1984, word
hierby gewysig deur paragraaf (a) van subartikel (2) deur die 60
volgende paragraaf te vervang:

“(a) Ondanks andersluidende bepalings van die een of an-
der wet of die gemene reg, maar behoudens die bepa-
lings van paragraawe (b) en (c), kan die gades by 'n hu-
welik buite gemeenskap van goed— 65

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Act, 1988, during the subsistence of any customary union between the husband and any woman other than the wife shall in any way affect the material rights of any partner of such union or any issue thereof, and the widow of any such marriage and **[any]** the issue thereof shall have no greater rights in respect of the estate of the deceased spouse than she or they would have had if the said marriage had been a customary union.”

2. Section 7 of the Divorce Act, 1979, is hereby amended—

Amendment of
section 7 of
Act 70 of 1979,
as amended by
section 36 of
Act 88 of 1984.

(a) by the substitution for subsection (3) of the following subsection:

“(3) A court granting a decree of divorce in respect of a marriage out of community of property—

(a) entered into before the commencement of the Matrimonial Property Act, 1984, in terms of an antenuptial contract by which community of property, community of profit and loss and accrual sharing in any form are excluded; or

(b) entered into before the commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988, in terms of section 22 (6) of the Black Administration Act, 1927 (Act No. 38 of 1927), as it existed immediately prior to its repeal by the said Marriage and Matrimonial Property Law Amendment Act, 1988,

may, subject to the provisions of subsections (4), (5) and (6), on application by one of the parties to that marriage, in the absence of any agreement between them regarding the division of their assets, order that such assets, or such part of the assets, of the other party as the court may deem just be transferred to the first-mentioned party.”; and

(b) by the substitution for subsection (5) of the following subsection:

“(5) In the determination of the assets or part of the assets to be transferred as contemplated in subsection (3), the court shall, apart from any direct or indirect contribution made by the party concerned to the maintenance or increase of the estate of the other party as contemplated in subsection (4), also take into account—

(a) the existing means and obligations of the parties, including any obligation that a husband to a marriage as contemplated in subsection (3) (b) of this section may have in terms of section 22 (7) of the Black Administration Act, 1927 (Act No. 38 of 1927);

(b) any donation made by one party to the other during the subsistence of the marriage, or which is owing and enforceable in terms of the antenuptial contract concerned;

(c) any order which the court grants under section 9 of this Act or under any other law which affects the patrimonial position of the parties; and

(d) any other factor which should in the opinion of the court be taken into account.”

3. Section 21 of the Matrimonial Property Act, 1984, is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

Amendment of
section 21 of
Act 88 of 1984,
as amended by
section 1 of
Act 91 of 1986.

“(a) Notwithstanding anything to the contrary in any law or the common law contained, but subject to the provisions of paragraphs (b) and (c), the spouses to a marriage out of community of property—

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- (i) wat voor die inwerkingtreding van hierdie Wet gesluit is ingevolge huweliksvoorwaardes waardeur gemeenskap van goed en gemeenskap van wins en verlies uitgesluit is; of
- (ii) wat voor die inwerkingtreding van die Wysigingswet op Huweliks- en Huweliksgoederereg, 1988, gesluit is ingevolge artikel 22 (6) van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), soos dit van krag was onmiddellik voor die herroeping daarvan deur genoemde Wysigingswet op Huweliks- en Huweliksgoederereg, 1988,

die bepalings van Hoofstuk I van hierdie Wet ten opsigte van hul huwelik laat geld deur die verlyding en registrasie in 'n registrasiekantoor binne twee jaar na **[daardie]** die inwerkingtreding van hierdie Wet of, in die geval van 'n huwelik bedoel in subparagraaf (ii) van hierdie paragraaf, binne twee jaar na die inwerkingtreding van genoemde Wysigingswet op Huweliks- en Huweliksgoederereg, 1988, na gelang van die geval, of sodanige langer tydperk, maar nie minder as ses maande nie, wat die Minister by kennisgewing in die *Staatskoerant* bepaal, van 'n notariële kontrak met daardie strekking.”

Wysiging van artikel 25 van Wet 88 van 1984, soos gewysig deur artikel 2 van Wet 91 van 1986.

4. Artikel 25 van die Wet op Huweliksgoedere, 1984, word hierby gewysig—

- (a) deur subartikel (1) te skrap;
- (b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Ondanks andersluidende bepalings van die een of ander wet of die gemene reg, kan die gades by 'n huwelik **[uitgesonderd 'n huwelik bedoel in subartikel (1)]** wat voor die inwerkingtreding van hierdie Wet gesluit is en ten aansien waarvan die huweliksgoederebedeling nie deur artikel 22 van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), bepaal is nie—

- (a) indien hulle in gemeenskap van goed getroud is, die bepalings van Hoofstukke II en III van hierdie Wet ten opsigte van hul huwelik laat geld; of
- (b) indien hulle buite gemeenskap van goed getroud is en die vrou onderworpe is aan die maritale mag van die man **[nie ingevolge die betrokke huweliksvoorwaardes uitgesluit is nie]**, die bepalings van Hoofstuk II van hierdie Wet ten opsigte van hul huwelik laat geld,

deur die verlyding en registrasie in 'n registrasiekantoor binne twee jaar na genoemde inwerkingtreding of sodanige langer tydperk, maar nie minder as ses maande nie, wat die Minister by kennisgewing in die *Staatskoerant* bepaal, van 'n notariële kontrak met daardie strekking, en in so 'n geval geld dié bepalings vanaf die datum waarop die betrokke kontrak aldus geregistreer is.”; en

- (c) deur die volgende subartikel by te voeg:

“(3) Ondanks andersluidende bepalings van die een of ander wet of die gemene reg, kan die gades by 'n huwelik wat voor die inwerkingtreding van die Wysigingswet op Huweliks- en Huweliksgoederereg, 1988, gesluit is en ten aansien waarvan die huweliksgoederebedeling deur artikel 22 van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), bepaal is—

- (a) indien hulle in gemeenskap van goed getroud is, die bepalings van Hoofstukke II en III van hierdie Wet ten opsigte van hul huwelik laat geld; of
- (b) indien hulle buite gemeenskap van goed getroud is en die vrou onderworpe is aan die maritale mag

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(i) entered into before the commencement of this Act in terms of an antenuptial contract by which community of property and community of profit and loss are excluded; or

(ii) entered into before the commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988, in terms of section 22 (6) of the Black Administration Act, 1927 (Act No. 38 of 1927), as it was in force immediately before its repeal by the said Marriage and Matrimonial Property Law Amendment Act, 1988,

may cause the provisions of Chapter I of this Act to apply in respect of their marriage by the execution and registration in a registry within two years after **[that]** the commencement of this Act or, in the case of a marriage contemplated in subparagraph (ii) of this paragraph, within two years after the commencement of the said Marriage and Matrimonial Property Law Amendment Act, 1988, as the case may be, or such longer period, but not less than six months, determined by the Minister by notice in the *Gazette*, of a notarial contract to that effect.”.

4. Section 25 of the Matrimonial Property Act, 1984, is hereby amended—

Amendment of section 25 of Act 88 of 1984, as amended by section 2 of Act 91 of 1986.

(a) by the deletion of subsection (1);

(b) by the substitution for subsection (2) of the following subsection:

“(2) Notwithstanding anything to the contrary in any law or the common law contained, the spouses to a marriage **[other than a marriage contemplated in subsection (1)]** entered into before the commencement of this Act and in respect of which the matrimonial property system was not governed by section 22 of the Black Administration Act, 1927 (Act No. 38 of 1927), may—

(a) if they are married in community of property, cause the provisions of Chapters II and III of this Act to apply to their marriage; or

(b) if they are married out of community of property and the wife is subject to the marital power of the husband **[was not excluded in terms of the antenuptial contract concerned]**, cause the provisions of Chapter II of this Act to apply to their marriage,

by the execution and registration in a registry within two years after the said commencement or such longer period, but not less than six months, determined by the Minister by notice in the *Gazette*, of a notarial contract to that effect, and in such a case those provisions apply from the date on which the contract concerned was so registered.”; and

(c) by the addition of the following subsection:

“(3) Notwithstanding anything to the contrary in any law or the common law contained, the spouses to a marriage entered into before the commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988, and in respect of which the matrimonial property system was governed by section 22 of the Black Administration Act, 1927 (Act No. 38 of 1927), may—

(a) if they are married in community of property, cause the provisions of Chapters II and III of this Act to apply to their marriage; or

(b) if they are married out of community of property and the wife is subject to the marital power of the

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van die man, die bepalings van Hoofstuk II van hierdie Wet ten opsigte van hul huwelik laat geld, deur die verlyding en registrasie in 'n registrasiekantoor binne twee jaar na genoemde inwerkingtreding of sodanige langer tydperk, maar nie minder as ses maande nie, wat die Minister by kennisgewing in die *Staatskoerant* bepaal, van 'n notariële kontrak met daardie strekking, en in so 'n geval geld dié bepalings vanaf die datum waarop die betrokke kontrak aldus geregistreer is.”.

Vervanging van artikel 26 van Wet 88 van 1984.

5. Artikel 26 van die Wet op Huweliksgoedere, 1984, word hierby deur die volgende artikel vervang:

“Toepassing van artikels 1 en 2 van Wet 37 van 1953.

26. Artikels 1 en 2 van die Wet op Huweliksaangeleenthede, 1953 (Wet No. 37 van 1953), is nie van toepassing nie op huwelike ten opsigte waarvan die bepalings van artikel 25 (2) of (3) van hierdie Wet van toepassing gemaak is of op huwelike na die inwerkingtreding van hierdie Wet gesluit [nie], uitgesonderd huwelike ten aansien waarvan die huweliksgoederebedeling deur artikel 22 (6) van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), bepaal [word] is voor die skraping daarvan deur die Wysigingswet op Huweliks- en Huweliksgoederereg, 1988.”.

Vervanging van artikel 89 van Wet 47 van 1937, soos ingevoeg deur artikel 32 van Wet 88 van 1984.

6. Artikel 89 van die Registrasie van Aktes Wet, 1937, word hierby deur die volgende artikel vervang:

“Registrasie van nahuwelikse kontrakte.

89. (1) Die bepalings van artikels 86 en 87 is *mutatis mutandis* van toepassing ten opsigte van—
(a) 'n lasgewing kragtens artikel 20 van die Wet op Huweliksgoedere, 1984, asof dié lasgewing 'n notariële kontrak was; en
(b) 'n kontrak ingevolge artikel 21 of 25 (2) of (3) van die Wet op Huweliksgoedere, 1984.
(2) Waar 'n kontrak ingevolge artikel 21 of 25 (2) (b) of (3) (b) van die Wet op Huweliksgoedere, 1984, bestaande huweliksvoorwaardes vervang of wysig, moet die kontrak wat geregistreer staan te word, van die bestaande huweliksvoorwaardes of 'n gesertifiseerde afskrif daarvan vergesel gaan.
(3) By die registrasie van 'n kontrak beoog in artikel 21 of 25 (2) (b) of (3) (b) van die Wet op Huweliksgoedere, 1984, word die bestaande huweliksvoorwaardes, as daar is, gekanselleer of paslik geëndosseer, na gelang van die geval, en vir dié doel gee die registrateur kennis aan die registrateur van die registrasiekantoor waar die bestaande huweliksvoorwaardes geregistreer is en aan elke registrateur in wie se registrasiekantoor 'n afskrif daarvan ingevolge artikel 87 (3) geliasseer is.”.

Wysiging van artikel 102 van Wet 47 van 1937, soos gewysig deur artikel 12 van Wet 3 van 1972, artikel 22 van Wet 27 van 1982, artikel 9 van Wet 62 van 1984 en artikel 4 van Wet 75 van 1987.

7. Artikel 102 van die Registrasie van Aktes Wet, 1937, word hierby gewysig deur in subartikel (1) paragrawe (b) en (c) van die omskrywing van “eienaar” deur die volgende paragrawe te vervang:

“(b) onroerende goed ten opsigte waarvan 'n reg van huurpag aan iemand toegeken en op sy naam geregistreer is, so 'n persoon, en waar so 'n reg van huurpag geregistreer is op naam van beide gades in 'n huwelik in gemeenskap van goed [geregistreer is]

- (i) waarop die bepalings van Hoofstuk III van die Wet op Huweliksgoedere, 1984 (Wet No. 88 van 1984), nie van toepassing is nie, die man; en
- (ii) waarop die bepalings van Hoofstuk III van die Wet op Huweliksgoedere, 1984, van toepassing is,

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husband, cause the provisions of Chapter II of this Act to apply to their marriage, by the execution and registration in a registry within two years after the said commencement or such longer period, but not less than six months, determined by the Minister by notice in the *Gazette*, of a notarial contract to that effect, and in such a case those provisions apply from the date on which the contract was so registered.”

- 10 5. The following section is hereby substituted for section 26 of the Matrimonial Property Act, 1984:

Substitution of section 26 of Act 88 of 1984.

“Application of sections 1 and 2 of Act 37 of 1953.

- 15 26. Sections 1 and 2 of the Matrimonial Affairs Act, 1953 (Act No. 37 of 1953), do not apply to marriages in respect of which the provisions of section 25 (2) or (3) of this Act have been applied or to marriages concluded after the commencement of this Act, other than marriages in respect of which the matrimonial property system is was governed by section 22 (6) of the Black Administration Act, 1927 (Act No. 38 of 1927), before the deletion thereof by the Marriage and Matrimonial Property Law Amendment Act, 1988.”
- 20

6. The following section is hereby substituted for section 89 of the Deeds Registries Act, 1937:

Substitution of section 89 of Act 47 of 1937, as inserted by section 32 of Act 88 of 1984.

25 “Registration of postnuptial contracts.

89. (1) The provisions of sections 86 and 87 shall *mutatis mutandis* apply in respect of—
- (a) an order under section 20 of the Matrimonial Property Act, 1984, as if that order were a notarial deed; and
- 30 (b) a contract in terms of section 21 or 25 (2) or (3) of the Matrimonial Property Act, 1984.
- (2) Where a contract in terms of section 21 or 25 (2) (b) or (3) (b) of the Matrimonial Property Act, 1984, replaces or amends an existing antenuptial contract, the contract to be registered shall be accompanied by the existing contract or a certified copy thereof.
- 35 (3) Upon the registration of a contract contemplated in section 21 or 25 (2) (b) or (3) (b) of the Matrimonial Property Act, 1984, the existing antenuptial contract, if any, shall be cancelled or endorsed appropriately, as the case may be, and for that purpose the registrar shall notify the registrar of the registry where the existing contract is registered and every registrar in whose registry a copy thereof is filed in terms of section 87 (3).”
- 40
- 45

7. Section 102 of the Deeds Registries Act, 1937, is hereby amended by the substitution in subsection (1) for paragraphs (b) and (c) of the definition of “owner” of the following paragraphs:

Amendment of section 102 of Act 47 of 1937, as amended by section 12 of Act 3 of 1972, section 22 of Act 27 of 1982, section 9 of Act 62 of 1984 and section 4 of Act 75 of 1987.

- 50 “(b) immovable property, where a right of leasehold in respect of such property has been granted to any person and registered in his name, such person, and where such a right of leasehold has been registered in the name of both spouses in a marriage in community of property—
- 55 (i) to which the provisions of Chapter III of the Matrimonial Property Act, 1984, (Act No. 88 of 1984), are not applicable, the husband; and
- (ii) to which the provisions of Chapter III of the Matrimonial Property Act, 1984, are applicable,

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enigee van die gades handelende met die skrifte-
like toestemming, deur twee bevoegde getuies
geattesteer, van die ander gade; en

- (c) onroerende goed, saaklike regte oor onroerende goed
en notariële verbande— 5
- (i) wat kragtens artikel 17 (1) geregistreer is op naam
van beide gades in 'n huwelik in gemeenskap van
goed **[wat gesluit is voor 1 November 1984 en]**
waarop die bepalings van Hoofstuk III van die
Wet op Huweliksgoedere, 1984 (Wet No. 88 van 10
1984), nie van toepassing is nie, die man;
- (ii) wat kragtens artikel 17 (1) geregistreer is op naam
van beide gades in 'n huwelik in gemeenskap van
goed **[wat gesluit is na 31 Oktober 1984, of in so 'n
huwelik wat voor 1 November 1984 gesluit is en ten 15
opsigte waarvan]** waarop die bepalings van Hoof-
stuk III van die Wet op Huweliksgoedere, 1984,
[geld] van toepassing is, enigee van die gades
handelende met die skriftelike toestemming, deur
twee bevoegde getuies geattesteer, van die ander 20
gade; en
- (iii) wat geregistreer is op die naam van slegs een gade
en wat deel uitmaak van die gemeenskaplike boe-
del van beide gades in 'n huwelik in gemeenskap
van goed **[wat gesluit is na 31 Oktober 1984, of in 25
so 'n huwelik wat voor 1 November 1984 gesluit is
en ten opsigte waarvan]** waarop die bepalings van
Hoofstuk III van die Wet op Huweliksgoedere,
1984, **[geld]** van toepassing is, enigee van die
gades handelende met die skriftelike toestemming, 30
deur twee bevoegde getuies geattesteer, van die
ander gade;".

Kort titel en
inwerkingtreding.

8. Hierdie Wet heet die Wysigingswet op Huweliks- en Huwe-
liksgoederereg, 1988, en tree in werking op 'n datum wat die
Staatspresident by proklamasie in die *Staatskoerant* vasstel.

35

MARRIAGE AND MATRIMONIAL PROPERTY LAW AMENDMENT
ACT, 1988

Act No. 3, 1988

either one of the spouses acting with the written
consent, attested by two competent witnesses, of
the other spouse; and

- 5 (c) immovable property, real rights in immovable property
and notarial bonds—
- 10 (i) which are registered under section 17 (1) in the
name of both spouses in a marriage in community
of property **[entered into before 1 November 1984
and]** to which the provisions of Chapter III of the
Matrimonial Property Act, 1984 (Act No. 88 of
1984), are not applicable, the husband;
- 15 (ii) which are registered under section 17 (1) in the
name of both spouses in a marriage in community
of property **[entered into after 31 October 1984, or
in such a marriage entered into before 1 November
1984 and in respect of]** to which the provisions of
Chapter III of the Matrimonial Property Act,
1984, **[applies]** are applicable, either one of the
20 spouses acting with the written consent, attested
by two competent witnesses, of the other spouse;
and
- 25 (iii) which are registered in the name of only one
spouse and which form part of the joint estate of
both spouses in a marriage in community of prop-
erty **[entered into after 31 October 1984, or in such
a marriage entered into before 1 November 1984
and in respect of]** to which the provisions of Chap-
ter III of the Matrimonial Property Act, 1984, **[ap-
plies]** are applicable, either one of the spouses act-
30 ing with the written consent, attested by two
competent witnesses, of the other spouse;”.

8. This Act shall be called the Marriage and Matrimonial
Property Law Amendment Act, 1988, and shall come into oper-
ation on a date fixed by the State President by proclamation in
35 the *Gazette*.

Short title and
commencement.

