

CareWorks' Employee Wellness Programme

Why Ante-Nuptial Contracts Matter in South Africa

Protecting your future before you say “I do”

Marriage is not only a romantic commitment—it’s also a legal and financial one. In South Africa, many people enter marriage without understanding how their **marital contract** affects their assets, debts, and financial future.

One of the most important decisions a couple can make before getting married is whether or not to sign an **Ante-Nuptial Contract (ANC)**. This article explains what an ANC is, why it matters, and how it can help you protect your finances and your relationship.

What Is an Ante-Nuptial Contract (ANC)?

An **Ante-Nuptial Contract** is a legal agreement signed **before marriage** that sets out how assets and debts will be dealt with during and after the marriage. It determines the **matrimonial property system** you and your partner will follow.

In South Africa, there are **three main types of marital regimes**:

1. **In Community of Property** (default if no ANC is signed)
 2. **Out of Community of Property without Accrual**
 3. **Out of Community of Property with Accrual**
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1. In Community of Property (Default if No ANC Signed)

- All assets and debts are shared equally between spouses.
- If one spouse goes into debt or is declared insolvent, the other spouse is also liable.
- Upon divorce or death, everything is split 50/50.

⚠ *Risky if one partner has a lot of debt or if the couple has unequal financial positions.*

2. Out of Community of Property Without Accrual (With ANC)

- Each spouse keeps their assets and debts completely separate.

- No sharing of assets or growth—each person walks away with what's theirs.
- Offers maximum financial independence.

 *Suitable for couples who want to fully protect their individual estates.*

3. Out of Community of Property With Accrual (With ANC)

- Assets acquired **before** marriage remain separate.
- Assets and wealth **acquired during** the marriage are shared equally upon divorce or death.
- Provides fairness while still protecting prior assets or inheritances.

 *Most popular and balanced option for modern couples.*

Why Is an ANC Important?

1. Protects Your Financial Future

Whether you're building a business, buying property, or bringing debt into the marriage, an ANC protects your personal finances from your partner's legal or financial issues.

2. Avoids Future Conflict

Clearly agreed terms help avoid confusion and disagreements during difficult times like divorce, insolvency, or death.

3. Customises Your Marriage

An ANC allows you to decide **how your financial relationship should work**, rather than relying on default legal rules.



4. Encourages Open Communication

Creating an ANC means having honest discussions about money, goals, and expectations—key ingredients for a healthy marriage.

5. Helps with Estate Planning

An ANC can make winding up an estate simpler and reduce legal complexities, especially when there are children or extended families involved.

Common Myths About ANCs

-  *"It means I don't trust my partner."*
 -  Truth: It shows that you respect each other enough to plan responsibly.

- ❌ “Only rich people need an ANC.”
✅ Truth: Anyone with a job, savings, or debt can benefit from financial clarity.
 - ❌ “We’ll figure it out later.”
✅ Truth: Once you're married **without** an ANC, you're automatically in community of property. It’s difficult and expensive to change this later.
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How to Get an ANC in South Africa

1. **Consult a Notary Public (Attorney)** – Only a qualified notary may draft and register an ANC.
2. **Sign the ANC Before Marriage** – It must be signed **before** the wedding day.
3. **Register at the Deeds Office** – The notary will register your ANC within three months of signing.

💰 *Cost: Usually between R2,000 and R5,000, depending on the attorney.*

Tips for Employees Planning to Marry

- Start planning **early**—don’t leave it to the last minute.
 - **Have open conversations** with your partner about finances, debts, and goals.
 - Speak to a legal professional or financial advisor to understand what’s best for your situation.
 - If you’re already married **without** an ANC, you can apply to court to change your marital regime—but it’s a long and costly process.
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What Employers Can Do

- Include **family law education** in employee wellness programmes.
 - Partner with attorneys to offer **discounted ANC drafting services**.
 - Host “**Legal Readiness Before Marriage**” workshops.
 - Share resources on **financial planning and relationship wellness**.
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In Summary

Getting married is a big step—not just emotionally, but legally and financially too. An **Ante-Nuptial Contract** helps couples protect their assets, reduce risk, and start married life on solid legal ground.

Plan wisely before you say “I do”—so your future is protected no matter what life brings.

Helpful Resources

- Legal Aid SA – www.legal-aid.co.za
- Law Society of South Africa – www.lssa.org.za
- LegalWise – www.legalwise.co.za
- SA Deeds Office Info – www.gov.za