

Spring has sprung ... and so has marriage season!!!

Spring is probably one of the most beautiful seasons of the year and is proven to evoke many emotions and feel-good hormones in people. So it is no surprise that people decide to get married at this time of the year. Statistics SA reports on all marriage related statistics annually. A recent report on the statistics between 1999 and 2008 provides for interesting reading.

In 2008 a total of 186 522 civil marriages were registered (in terms of the Marriage Act) of which 84% was first time marriages. During this 10-year period there has been a slow, but steady increase in marriages, at 2.9% per annum. The average age of men getting married is 34 and women is 29. Of all the marriages entered into during 2008, 14.6% of grooms were younger than their brides and only 7.1% were the same age. In most cases brides are younger than their grooms.

The reverse of marriage statistics is unfortunately divorces statistics. The average number of divorces over this 10 year period was between 29 000 and 37 000 per annum. Most divorces over this time were amongst African people, where the trend is for husbands to initiate the process. In coloured and white divorces, 60% of proceedings are instituted by women. Another interesting fact sees the seven-year itch lose its truth, as the average number of years the marriages, that ended in divorce, lasted was 9



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years. The average divorcing age for women is 38 and for men are 41 with 56% of the marriages ending in divorce having one or more children, under the age of 18, involved.

With this in mind one can agree with the term “trou is nie perde koop nie”. In researching this article various interactive websites were found where people ask questions pertaining to marriage regimes and the impact on property ownership and division, and it is obvious that most people out there getting married do not investigate the different options available when entering into a marriage and do not understand the full extent of the implications of each of the marriage regimes or alternative relationship arrangements.

This article does not intend to give an in depth analysis of the different regimes and alternatives available, but rather to give a snapshot of the alternatives available which will be discussed in greater depth in future Leverage publications.

When entering into a relationship and ultimately in some form of commitment, parties should pay the same attention to the detail as they would when entering into a business venture or purchasing an important asset – as the devil is always in the detail. If asked, most of the 186 522 marriages that were entered into in 2008, how much time they spent on planning their wedding ceremony vs planning their marriage regime and future financial affairs, the first option will surely get preference.



When consulting with a client who is planning to commit to a relationship or to marriage, the alternatives to consider would include:

- Do we live together first? What is a common law spouse and what timeframe is attached to this definition? What entitlement will each party have should this relationship not work out? What role will a co-habitation agreement have in this relationship?
- If we decide to get married under the Marriage Act (a civil marriage), what marriage regime should we consider – in community of property, out of community of property with or without the accrual claim? What impact will each choice have on the economic future of each person and upon the dissolution of that marriage?
- If we are getting married under customary laws, is this marriage recognised under South African law and what 'marriage regime' will apply? What impact does the Customary Marriages Act have and what obligations does it place on the parties to such a union? What is the position on monogamous and polygamous unions?
- If we are planning a religious marriage, what legal recognition will this marriage have and what impact does it have on the division of assets, should death or divorce occur. What right will the children from such a marriage have in respect of each parent?



- What is a civil union in terms of the Civil Unions Act? Is this legislation only reserved for same-sex couples? What are the legal implications of such a union?

The list is continuous and exhausting, but necessary. Marriage is an institution that is taken for granted and that happens every day. By ensuring that the proprietary issues surrounding this union is understood the bride and groom can focus on making a success of the marriage – which would result in a healthier social structure which will bring world peace (if only it was that easy).

With Women's Month fresh in our memory this Leverage will also focus on the importance of women taking control of their and their family's financial planning. We will end this edition with the impact that divorce may have on financial planning.

It's spring - a new season - a time for new beginnings

Women take charge!

By Fleur Lerwill

Women are faced with many roles and challenges. They champion the home, the physical and emotional needs of their family and on top of all that they have to manage their careers and/or businesses. Women are an integral part of society, business and family, yet, they tend to be uninvolved in the financial affairs, be it their own or that of the family. The role of the financial planner is to equip all clients, including women, to allow them to manage their financial risks responsibly and invest sensibly, both in their personal and business capacity, to ensure wealth creation, protection and preservation for future generations.

Within the many roles a woman fulfils, one that often lacks is that of the financial planner. Many

rely on their husbands/partners to take care of the finances and don't have an understanding of the household finances, until a crisis occurs and this is often too late.

This article will investigate the most common roles played by women and will highlight the importance of financial planning in each one:

The Home Executive

Even though a **home executive** does not make a financial contribution to the household, she does play a vital role in the success thereof. It is often in the form of putting a career on hold in favour of creating a trusted home for her husband and children, assisting her spouse to be the best



he can be. In this process the family becomes accustomed to a certain lifestyle and she needs to ensure that provisions are made to protect that lifestyle if her spouse is no longer around. Some of the most important factors the home executive should consider include the following:

- Make sure both spouses have an updated will and understand the content thereof and who the executor is.
- Know what insurance provisions exist on the life of her spouse. Know with which insurance company it is, the amount of life cover payable upon his death and she must ensure that she

is nominated as the beneficiary on those policies. This can limit estate related costs and ensure that she receive the proceeds as soon as possible.

- Know where important documents are kept. It is advisable to maintain a file, for both spouses, that contain the following:
 - » The updated will;
 - » A list of bank accounts;
 - » Policy schedule;
 - » Beneficiary nominations on policies and group life cover;
 - » Up to date balance sheet;
 - » Vehicle registration documents;
 - » Property ownership documentation;
 - » Telephone numbers of relevant parties involved in the financial plan – like the financial planner’s details, the personal bankers details, etc.
- She should have her own bank account. This will prevent her account from being frozen upon the death of her spouse.
- Ensure that the spouses have Power of Attorney signed for each other, in the event of either one of them falling ill.
- Establish a credit rating. Don’t wait until it is too late.
- Have a realistic retirement plan, which exists independently from her spouse – even if he contributes to some form of retirement saving on her behalf.

- Prepare a realistic budget with her husband at least once a year or when there is a material change in their circumstances.
- Be present when her husband is meeting with the financial planner and ask for an estate calculation to be done so that she knows what costs will apply in the event of his death.
- Understand her husband's retirement plans and should he have his own business, what the business continuity plans are and how it will affect her.



The Business woman

A business woman always has to be on top of her game. She normally has a dual role as a business owner and a mother/wife. Therefore it is understandable that she may not have the time to take care of her financial planning needs. Some points to ponder would include:

- Like an individual the business needs a financial plan – this will secure the continuity of the business and limit future financial risks to the business its stakeholders.
- She needs to consider what will happen to the business upon her death, disability or illness, irrespective of whether she is the sole owner, partner or co-shareholder of the business.
- Most businesses are funded by loans, whether personal loans or loans from a bank. Where loans are acquired from banks or like institutions, personal surety is often required. By doing so she binds her personal estate and the business needs to ensure that the debt can be paid off should she die or become disabled.
- Although death is a certainty, neither disability nor illness can be foreseen. As a business owner her disability or illness would not only affect her personal life, but also have a detrimental effect on the business. Business expenses and overheads must be protected should this happen as well as personal income.

- She must assess her business to identify any key individuals, whose death or permanent disability will cause the business to incur major financial losses. A plan should be implemented to limit these potential losses.
- Other important factors in the business may be the retention of staff and expansion of the business. Offering benefits to staff can secure their loyalty. Saving structures can be put in place to fund future expansion and the necessary replacement of assets.
- An exit strategy should be put in place to ensure that the business is secure post retirement and that she can in fact afford to retire.
- As the owner of the business she may belong to a company retirement fund, however, a retirement plan should be done to identify any shortfalls and to find suitable ways to address those.

According to statistics women outlive men. Consequently, it is imperative that she has the peace of mind that the family is well provided for in the event her own or her partner's/husband's death, disability and illness. The challenge now is to give the women in your practice the much needed financial "facelift"-to unlock her full financial potential. Spring is the season to put a 'spring' into the first step towards financial independence.

The financial planner's role in this plan is:

Focus on your female clients and male clients' wives, whether they are home executives, employed, married, unmarried, divorced, with or without children.

This will assist you to build your business as it will provide:

- An opportunity for client contact
- Which will result in your client feeling valued
- Which will assist with client retention
- Which may increase your existing client base
- Which will result in more business!!

Take into account examples of the following benefits of:

- Myriad's Interactive and Multiply's status and fitness discounts (up to *60%!);
- Myriad's contribution to retirement planning with an enhancement to RA's;
- Myriad's unique last survivor death benefit;
- Myriad's choice of varying premium patterns integral to a holistic financial plan; and
- Myriad's income protection for individuals and businesses

The impact of divorce on financial planning

The change in a person's marital status has a direct impact on all parts of his/her financial plan. The following are some of the issues that need to be addressed:

Has the will been updated?

When a person gets divorced one of the first things that need attention is the will. Should he/she die in the first three months from the date of divorce without amending their will, the will is executed as if the ex-spouse if predeceased. The ex-spouse will not receive any benefit from the deceased's estate.

Should the testator neglect to amend his/her will within a three month period after the divorce date it will be assumed that the will is intended to remain unchanged. If the will still nominates the ex-spouse as the heir of the estate that will be honoured as the testator's last will and wishes and it will be enforceable.

Review and change the beneficiary nominations on all policies and group benefits

When nominating a beneficiary on policies, a contractual obligation is placed on the insurance company to make payment to that nominated person. The insurance contract will provide that this obligation may only be amended by making a written instruction to the insurance company.

Regarding group life benefits, if attached to the pension benefits the trustees will review the deceased's personal situation and dependants prior to making a final decision on where the benefits should go (in terms of the Pension Fund Act) – therefore if you have minor children it is likely that they will receive the benefits rather than an ex-spouse that is nominated as a beneficiary.

If there are no dependants it is likely that the trustees will honour the written nomination. This will also be the case if the group life is not linked to the pension fund.

The ex-spouse will however be entitled to benefits awarded in terms of the divorce order

Is there a liability for maintenance?

In most cases, especially if there are children there will be a maintenance order, and in some cases a spouse may also be awarded maintenance. For the payer it is important to provide for this future maintenance liability in his/her will, either by way of a testamentary trust for minors or a direct bequest in the case of a spouse. The best way to provide for the maintenance is to affect a life insurance policy for an amount equal to the present value of the future liability. Should this not be done the maintenance order will be enforceable against the estate which could result in the possible sale of assets, which is not the ideal situation. For the recipient it is important to ensure that the payer is able to meet his/her obligations even after death.

Reassess financial plans

Generally spouses will consider each other and their respective estates when doing estate planning. After a divorce this entire plan has to be reviewed to ensure that it is still relevant. This will entail a revision of life insurance policies, to ensure that all personal debt can be settled



and that provisions are made for children, independently from the other parent.

Another part of the plan that is vital to reconsider is the retirement plan. Many retirement plans relies more on one of the spouses. In the case of divorce it is very important to ensure that each person's retirement plan can sustain itself independently.

The above are some of the important considerations upon divorce in respect of financial planning and the situation can become even more complex upon parties remarrying and having second families. This proves that like marriage, divorce is also a complex concept.

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If you are not a Fulcrum user and would like more information about our products and services, please contact your marketing adviser.

Head: Business & Personal Solutions:

Bertie Nel

e-mail: bertie.nel@momentum.co.za

Senior Legal Adviser:

Sharon Teubes

e-mail: sharon.teubes@momentum.co.za

Business development managers:

Name	Region	Contact no.	e-mail address
Emile Hofmeyr	Bosveld and Centurion	082 043 2746	emile.hofmeyr@momentum.co.za
Jacqui van Marcke	East Rand and Tshwarane	083 326 8188	jacqui.vanmarcke@momentum.co.za
Fritz Beukes	Pretoria and Mpumalanga	082 469 4004	fbeukes@momentum.co.za
Paul Nell	JBS, Woodmead, Houghton, Eastern Cape & West Rand	082 777 1004	paul.nell@momentum.co.za
Fleur Lerwill	Cape Town, Boland and Tygervalley	082 880 6010	fleur.lerwill@momentum.co.za
Monique Johnson	Free State and Northcliff	082 560 5177	monique.johnson@momentum.co.za
Shivashni Bhogal	Nexus, Durban, Midcoast and Westriding	083 799 3111	shivashni.bhogal@momentum.co.za
Vacant	Oryx, RBS		
Tilly Govender		082 374 7875	tilly.govender@momentum.co.za
Tabiso Mantyi		073 899 4852	tabiso.mantyi@momentum.co.za
Jannie Els		082 825 0942	jels@metropolitan.co.za

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