

# PROCESSES FOLLOWED BY DHA TO MEET DEADLINE SET BY COURT ORDER



On 2 February 2006 a meeting was held with the Director-General of the Presidency, Reverend Frank Chikane in Cape Town and was attended by representatives from the Departments of Home Affairs (DHA), Justice and Constitutional Development (DOJ), the SALRC and the Presidency to discuss the amendment of the Marriage Act and the process to be followed.

On 29 March 2006 a Workshop was held at the Zebra Lodge by the Chief Directorate: Legal Services (DHA) and was attended by Provincial Managers, Area Managers and various marriage officers from each Province. The attendees were requested to submit proposals for the amendment of the Marriage Act.

The Chief Directorate: Legal Services (DHA) has also been receiving requests and proposals from religious interest groups, namely the Commission on Gender Equality and the South African Pagan Rights Alliance and has considered all the relevant requests and proposals.

# PROCESSES FOLLOWED BY DHA TO MEET DEADLINE SET BY COURT ORDER (CONTINUED)



On 30 March 2006 a meeting was held with the Director-General of DHA where the Director-General was briefed regarding the outcome of the Workshop. At this meeting the Director-General clearly indicated that the Department's viewpoint should be to amend the Marriage Act with the view of adhering to the Court Order within the specified timeframe.

On 4 April 2006 the proposed Marriage Amendment Bill had been prepared in accordance with the instruction of the Director-General of DHA to give effect to the Court Order.

- (i) the words "or spouse" were inserted after the words "or husband" in section 30(1) of the Marriage Act;
- (ii) the definition of "marriage" was amended to provide that "marriage" means the voluntary union of two persons concluded in terms of this Act to the exclusion of all others;

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- (iii) section 3 of the Marriage Act was amended to provide for the designation as marriage officers of people from other religious denominations or organisations (i.e. not only Christian, Jewish or Mohammedan ministers); and
- (iv) other consequential amendments were also made.

Another meeting with Reverend Chikane was scheduled to take place on 19 April 2006 where the viewpoints of DHA, DOJ, SALRC and the Presidency would be discussed. However, upon request of the DOJ, the scheduled meeting did not take place and was never re-scheduled.

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- Since then, DHA has on several occasions attempted to arrange meetings with DOJ in order to discuss the amendment of the Marriage Act and to establish which Department will be responsible for seeing the relevant Bill through the Parliamentary process.
- However, on 7 July 2006 a meeting was arranged by the DOJ and was attended by the Directors-General of the DOJ and DHA and other representatives from the DOJ and DHA. At this meeting the uncertainties concerning which of the proposals to accept were discussed. The proposal by the DHA was rejected by the DOJ and it was decided that the "Dual Act"-proposal of the SALRC and the civil union-proposal of the DOJ would be presented to the Ministers of the DOJ and DHA and the Ministers would have to meet in order to discuss which proposal would be acceptable.
- The Ministers have however not been able to meet in order to decide on the way forward.