

NOTICE 36 OF 2008**DEPARTMENT OF HOME AFFAIRS
DOMESTIC PARTNERSHIPS BILL, 2008****PUBLICATION OF THE DRAFT DOMESTIC PARTNERSHIPS BILL, 2008 FOR COMMENTS**

The Department of Home Affairs ("DHA") invites public comments on the draft Domestic Partnerships Bill of 2008.

Written submissions should reach the DHA **on or before 15 February 2008**. Submissions should be addressed to the Acting Chief Director: Legal Services and may be forwarded to the DHA in any of the following ways:

- (a) delivered by hand to the DHA, c/o Maggs and Petroleum Streets, Waltloo, Pretoria, 0186;
- (b) mailed to the DHA at Private Bag X114, Pretoria, 0001;
- (c) faxed to (012) 810-7044 / 0866 113 479; or
- (d) e-mailed to Agnes.Lengoabala@dha.gov.za and Yolande.vanAswegen@dha.gov.za

Any enquiries should be directed to **Mrs Agnes Lengoabala** or **Adv Yolande van Aswegen** at **(012) 810-7142** or **(012) 810-8967**.

REPUBLIC OF SOUTH AFRICA

DOMESTIC PARTNERSHIPS BILL

(Draft)

(MINISTER OF HOME AFFAIRS)

[B—2008]

BILL

To provide for the legal recognition of domestic partnerships; the enforcement of the legal consequences of domestic partnerships; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 9(1) of the Constitution of the Republic of South Africa, 1996, provides that everyone is equal before the law and has the right to equal protection and benefit of the law;

AND NOTING that there is no legal recognition or protection for opposite-sex couples in permanent domestic partnerships,

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

CHAPTER 1

INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context otherwise indicates—

“Administration of Estates Act” means the Administration of Estates Act, 1965 (Act No. 66 of 1965);

“child of a domestic partnership” includes—

- (a) any child born as a result of sexual relations between the domestic partners;
- (b) any child of either domestic partner;
- (c) any child adopted by the domestic partners jointly; or
- (d) any other child who was a dependant of the domestic partners—
 - (i) at the time when the domestic partners ceased to live together;

(ii) if the domestic partners had not ceased to live together, at the time immediately before an application under this Act; or

(iii) at the date of the death of one of the domestic partners;

“Civil Union Act” means the Civil Union Act, 2006 (Act No. 17 of 2006);

“Compensation for Occupational Injuries and Diseases Act” means the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);

“contribution” means—

(a) the financial and non-financial contributions made directly or indirectly by the domestic partners—

(i) to the acquisition, maintenance or improvement of any joint property, or separate property of either of the domestic partners or to the financial resources of either or both of them; or

(ii) in terms of a registered partnership agreement; and

(b) the contributions, including any contributions made in the capacity of homemaker or parent, made by either domestic partner to the welfare of the other domestic partner or to the welfare of the family constituted by them and a child of the domestic partners: Provided that there is no presumption that a contribution referred to in paragraph (a) is of greater value than a contribution referred to in paragraph (b);

“court” means a High Court or a family court established under section 2(k) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944);

“domestic partner” means a partner in a domestic partnership and includes a former domestic partner;

“domestic partnership” means a registered domestic partnership or unregistered domestic partnership between two persons who are both 18 years of age or older and includes a former domestic partnership;

“duty of support” means the responsibility of each registered domestic partner to provide for the other partner’s basic living expenses while the registered partnership exists;

“family” includes partners in a domestic partnership and their dependants;

“family home” means the dwelling used by either or both domestic partners as the only or principal family residence, together with any land, buildings or improvements attached

to that dwelling and used wholly or principally for the purposes of the domestic partnership household;

“financial matters” in relation to parties to a registered partnership agreement, means matters with respect to—

- (a) the property of either or both of the parties; or
- (b) the financial resources of either or both of the parties;

“financial resources” in relation to either or both of the domestic partners includes—

- (a) a prospective claim or entitlement in respect of a scheme, fund or arrangement under which pension, retirement or similar benefits are provided;
- (b) property which, pursuant to the provisions of a discretionary trust, may become vested in or used or applied in or towards the purposes of the partners or either of them;
- (c) property, the alienation or disposal of which is wholly or partly under the control of the partners or of either of them and which is lawfully capable of being used or applied by or on behalf of the partners or by either of them in or towards their or his or her own purposes; and
- (d) any other benefit with a value;

“household goods” means corporeal property intended and used for the joint household, where such movable goods are owned separately or jointly by the domestic partners, or in the possession of either or both domestic partners under a credit agreement or conditional sale agreement or an agreement for lease or hire, and includes movable goods of the following kind—

- (a) Household furniture;
- (b) household appliances, effects or equipment;
- (c) household articles for family use or amenity or household ornaments, including tools, garden effects and equipment;
- (d) motor vehicles, caravans, trailers or boats, used wholly or principally, in each case, for family purposes;
- (e) accessories of goods to which subparagraph (d) applies; and
- (f) household pets;

but excludes—

- (a) movable goods used wholly or principally for business purposes;
- (b) money or securities for money; and