

10.4 CHANGE TO THE MATRIMONIAL REGIME

1. The application is commenced by publication in the Government Gazette of a notice substantially in the form of Annexure A hereto.
2. The report of the Registrar of Deeds must be obtained before such advertisement is placed.
3. At least 3 weeks before the hearing date a copy of the notice referred to in para 1 must be forwarded to each creditor by registered post and must be accompanied by a letter, a copy of which must be placed before the court, which states -
 - 3.1 on which date and time and to which court application will be made;
 - 3.2 the full names of the spouses, their identity numbers and their residential addresses and places of employment in the preceding 12 months;
 - 3.3 the effect of the proposed order;
 - 3.4 that a creditor whose interests will be prejudicially affected by the change of marital regime, may appear at the hearing to oppose the granting of the order.
4. The name, address, amount owing to, and the cause of action of each contingent and other creditor must be set out in the application. Proof of compliance with para 1, 2 and 3 must be proved at the hearing of the application by the filing of a supplementary affidavit.

ANNEXURE A

Take notice that on the _____ day of _____ 20____ at 10h00 or so soon thereafter as the matter can be heard, the abovementioned applicants will apply to the South Gauteng High Court of Johannesburg (address) for an order in the following terms:

1. The applicants are given leave to change the matrimonial property system which applies to their marriage, by the execution and registration of a notarial contract, a draft whereof is attached to the first applicant's supporting affidavit and is marked ". . ." and which contract, after registration thereof, will regulate their property system;
2. The Registrar of Deeds is authorised to register the notarial contract;
3. This order –
 - 3.1 will lapse if the notarial contract is not registered by the Registrar of Deeds within two months of the date of the granting of this order; and
 - 3.2 will not prejudice the rights of any creditor of the applicants as at date of registration of the contract.