



Press Release: Human Rights Organisations celebrate as President Ramaphosa Signs the Civil Union Amendment Bill into Law

October 2020 - Leading Human Rights organisations are celebrating as President Cyril Ramaphosa assented to the [2020 Civil Union Amendment Act](#), which was gazetted on 22 October 2020. With the gazetting, the Civil Union Amendment Act 8 of 2020 comes into immediate effect.

South Africa became the fifth country in the world, and the first in Africa, to legalise same-sex marriages through the adoption of the Civil Union Act 17 of 2006, ('Civil Union Act'). However, Section 6 of the Civil Union Act allowed government-employed marriage officers to refuse to solemnise same-sex and same-gender unions because of their religious beliefs. This option to refuse marriage services was only available when marriage officers were requested to solemnise same-sex and same-gender marriages.

The impact of Section 6 on the lived realities of same-sex and same-gender couples was dire. Section 6 reinforced the perception that same-sex and same-gender couples are not worthy of the protection of law and therefore people could elect not to respect their rights despite the protections guaranteed by the Constitution. The impact of Section 6 did not stop there – in 2017, the then Minister of Home Affairs acknowledged that 421 of the Ministry's 1,130 marriage officers were exempt from performing same-sex and same-gender civil unions as they "objected on the grounds of conscience, religion or belief". Same-sex and same-gender couples attempting to enter into civil unions or partnerships in terms of the Civil Union Act have reported persistent systematic refusals by some officials of the Department of Home Affairs (DHA) to offer services to them, including those related to civil unions and partnerships because of their sexual orientation.

The limiting of services because of individual views on LGBTQI+ persons did not end with Section 6 and civil unions. Transgender spouses who transitioned while married under the Marriage Act, and applied to change their gender marker, were compelled by DHA to divorce, and remarry under the Civil Union Act. They had to approach courts for assistance. In 2017, a Western Cape High Court judgment, *KOS v Minister of Home Affairs*, stated that actions of the DHA were unlawful and inconsistent with the Constitution.

The Civil Union Amendment Act repeals Section 6 in its entirety and with its coming into law, marriage officers employed by the Department of Home Affairs and the State may no longer object to solemnising a civil union between persons of the same sex/gender. Those marriage officers who had previously received exemptions from the Minister not to solemnise same-sex marriages, will lose their exemption two years from 22 October 2020. With immediate effect, the Act requires the Minister of Home Affairs to ensure that there is a marriage officer available to solemnise a civil union at **every** Department of Home Affairs office.

We welcome the adoption of the Civil Union Amendment Act, which is a necessary step towards the realisation of the rights to equality and dignity of LGBTQI+ persons as enshrined in the Bill of Rights in the Constitution of the Republic of South Africa. We urge the Department of Home Affairs to take immediate steps to implement equal access to all its services for LGBTQI+ people and ensure that no person approaching Home Affairs experiences discrimination on the basis of their sexual orientation, gender identity, gender expression and/or sex characteristics (SOGIESC).

ENDS

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