

Matrimonial property regime applicable in certain instances

- A **civil union** has the same patrimonial consequences as a normal civil marriage, in other words the parties are married **in** community of property unless the parties concluded an antenuptial contract (anc).
- In the case of a **Muslim marriage** the parties are married **out** of community of property, unless they also concluded a civil marriage in which case the normal consequences of a civil marriage follow.
- In the case of a **customary marriage**, the situation is a bit more complicated.
 - If the customary marriage was concluded AFTER 2000, and:
 - If there is only **one** customary union involved, then the parties are married **in** community of property.
 - However, if there is more than one customary union involved, a court approved contract has to be applied for before the further marriages are concluded. This contract will set out the matrimonial consequences that will be applied in future to all the customary unions. According to Heaton *SA Family Law 2nd ed*, these marriages can logically speaking only be out of community of property.
 - If the marriages were concluded **before** the Recognition of Customary Marriages Act of 2000, the customary law will determine the matrimonial consequences. For more information on this, you may consult Heaton *SA Family Law 2nd ed*.