

A WOMAN'S DIVINE RIGHT TO CHANGE HER SURNAME

It has always been understood, even though incorrectly understood that a woman assumes her husband's surname, and must retain such surname until divorce or death, unless the Director General of Home Affairs authorises a change thereto.

But section 26(1) of the Births and Death Registration Act 51 of 1992, reads:

"Subject to the provisions of this Act or any other law, no person shall assume or describe themselves by or pass under any surname other than under which he or she has been included in the population register, unless the Director General has authorised him or her to assume that other surname: provided that this section shall not apply when-

- a. a woman after her marriage assumes the surname of the man with whom she concluded such marriage or after having assumed his surname, resumes the surname which she bore at any prior time;
- b. a married or divorced woman or a widow resumes the surname which she bore at any prior time; and
- c. a woman, whether married or divorced, or a widow adds to the surname which she assumed after the marriage, any surname which she bore at any prior time".



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On the website of the Department of the Home Affairs the following was found:

“In terms of 26(1), a woman may assume her husband’s surname, or revert back to her maiden surname or prior surname she legally bore, and since 1997 a woman may also join her surname with that of her husband as a double-barreled surname. No application to the Department of Home Affairs is necessary in these instances, but to enable the Department to update the Population Register, women should notify the Department of such changes in writing”.

Accordingly, it is not necessary for a woman to make an election which is binding on her and therefore she is entitled to change her name at any time, provided such change remains within exceptions a, b and c.



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