

INTERNAL QUESTION PAPER 26 – 2022

355. Mr M G E Hendricks (Al-Jamah-ah) to ask the Minister of Home Affairs:

- (1) What are the details of the legislative provisions that Muslim marriage officers rely on to perform a Nikah, the Islamic marriage ceremony, and have both spouses to consent in obtaining a marriage certificate;
 - (2) whether his department intends to take steps to train and allow Imams to formally officiate an Islamic marriage at the approximately 2 000 mosques in the Republic; if not, what is the position in this regard; if so, will such marriages be recognised in terms of the Recognition of Customary Marriages Amendment Act, Act 1 of 2021?
- NO2994E

REPLY:

- (1)&(2) The Department of Home Affairs does not currently have a legislative provision that regulates how Muslim marriage officers should perform a Nikah. The White Paper on Marriages in South Africa that was approved by Cabinet in March 2022 identifies this as part of its problem statement. To address this matter, the White Paper has made policy provisions for more inclusive marriage laws that do not discriminate against people with different religious or cultural beliefs. To this end, the department is currently drafting a new Marriage legislation to give effect to the policy to include the regulation of Muslim marriages, amongst others.

To give effect to the Constitutional Court judgement on regulating Muslim marriages, the Department of Home Affairs has put in place an interim measure for Muslim marriages to be registered whilst the new Marriage Bill is being drafted. The Directive that was issued in January 2022 enables persons who enter into a Muslim marriage to register that marriage according to the Recognition of Customary Marriages Act. The Directive requires that:

- (i) There must be two representatives during the registration of customary marriage, one from either family with certified copies of their 13-digit identity document

- (ii) A Muslim marriage certificate must be submitted
- (iii) Both spouses must consent to being married to each other under the Muslim marriage
- (iv) Both spouses must submit their IDs for verification in the National Population Register
- (v) Where one spouse is deceased the surviving spouse must submit a sworn affidavit.

The Department of Home Affairs in the past had trained Imams and registered them as marriage officers. The Imams have been officiating Muslim marriages. The Department of Home Affairs offers training to persons who want to be registered as marriage officers and should the request for training be requested, the department will be able to offer this training to Imams.

END