

(1 October 1992 – to date)

[This is the current version and applies as from 1 October 1992 - to date, i.e. the date of commencement of the Births and Deaths Registration Act 51 of 1992, Gazette No. 13953, No. 1235. Commencement date: 1 October 1992 from Proc. No. 79, Gazette No. 14182 – to date]

## **MARRIAGE ACT 25 of 1961**

*(Gazette No. 6670, Notice No. 613 dated 21 April 1961. Commencement date: 1 January 1962 [Proc. No. 180, Gazette No. 145]*

*[Assented to 19th April, 1961]*

*(English text signed by the Governor-General.)*

### **As amended by:**

Marriage Amendment Act 11 of 1964 – Gazette No. 734, No. 288. Commencement date: 28 February 1964

Marriage Amendment Act 19 of 1968 – Gazette No. 2023, No. 482. Commencement date: 27 March 1968

Marriage Amendment Act 51 of 1970 – Gazette No. 2822, No. 1551. Commencement date: 1 February 1972  
[Proc. No. 169, Gazette No. 3220]

Marriage Amendment Act 26 of 1972 – Gazette No. 3464, No. 588. Commencement date: 12 April 1972

Marriage Amendment Act 12 of 1973 – Gazette No. 3831, No. 547. Commencement date: 4 April 1973

Marriage Amendment Act 45 of 1981 – Gazette No. 7506, No. 624. Commencement date: 8 January 1982  
[Proc. No. 1, Gazette No. 7982]

Matrimonial Property Act 88 of 1984 – Gazette No. 9322, No. 1517. Commencement date: 1 November 1984  
[Proc. No. 158, Gazette No. 9413]

Marriages, Births and Deaths Amendment Act 41 of 1986 – Gazette No. 10211, No. 772. Commencement date: 23 April 1986

Child Care Act 74 of 1983 – Gazette No. 8765, No. 1318. Commencement date: 1 February 1987 [Proc. No. 17, Gazette No. 10593]

Application of Certain Laws to Namibia Abolition Act 112 of 1990 – Gazette No. 12634, No. 1614.  
Commencement date: 13 July 1990

Population Registration Act Repeal Act 114 of 1991 – Gazette No. 13342, No. 1491. Commencement date:  
28 June 1991

Births and Deaths Registration Act 51 of 1992 – Gazette No. 13953, No. 1235. Commencement date: 1  
October 1992 [Proc. No. 79, Gazette No. 14182]

## ACT

**To consolidate and amend the laws relating to the solemnization of marriages and matters incidental thereto.**

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

### 1. Definitions

In this Act, unless the context otherwise indicates

**"Bantu Affairs Commissioner"** includes an Additional Bantu Affairs Commissioner, an Assistant Bantu Affairs Commissioner, a Native Commissioner, an Additional Native Commissioner and an Assistant Native Commissioner.

*(Definition of "Bantu Affairs Commissioner" substituted by section 1(a) of Act 51 of 1970)*

**"magistrate"** includes an additional and an assistant magistrate;

**"marriage officer"** means any person who is a marriage officer by virtue of the provisions of this Act;

**"Minister"** means the Minister of the Home Affairs;

*(Definition of "Minister" substituted by section 1(b) of Act 51 of 1970)*

*(Definition of "Minister" substituted by section 1 of Act 41 of 1986)*

**"native commissioner"** includes an additional and an assistant native commissioner;

**"prescribed"** means prescribed by this Act or by regulation made under this Act:

**"prior law"** means any law repealed by this Act or the Marriage Amendment Act, 1970, or any provision of any law declared by proclamation under section 39(5) no longer to apply.

*(Definition of "prior law" substituted by section 1(c) of Act 51 of 1970)*

**2. Ex officio marriage officers and designation of persons in service of State as marriage officers**

- (1) Every magistrate, every special justice of the peace and every native commissioner shall by virtue of his office and so long as he holds such office, be a marriage officer for the district or other area in respect of which he holds office.
- (2) The Minister and any officer in the public service authorized thereto by him may designate any officer or employee in the public service or the diplomatic or consular service of the Union to be, by virtue of his office and so long as he holds such office a marriage officer, either generally or for any specified class of persons or country or area.

*(Section 2(2) substituted by Section 2 of Act 51 of 1970)*

*(Section 2(2) substituted by Schedule II of Act 114 of 1991)*

**3. Designation of ministers of religion and other persons attached to churches as marriage officers**

- (1) The Minister and any officer in the public service authorized thereto by him may designate any minister of religion of, or any person holding a responsible position in, any religious denomination or organization to be, so long as he is such a minister or occupies such position, a marriage officer for the purpose of solemnizing marriages according to Christian, Jewish or Mohammedan rites or the rites of any Indian religion.
- (2) A designation under sub-section (1) may further limit the authority of any such minister of religion or person to the solemnization of marriages -
  - (a) within a specified area;
  - (b) for a specified period.
  - (c) ....

*(Section 3(2) substituted by Section 3 of Act 51 of 1970)*

*(Section 3(2) substituted by Schedule II of Act 114 of 1991)*

**4. How designation as marriage officer to be made**

Every designation of a person as a marriage officer shall be by written instrument and the date as from which it shall have effect and any limitation to which it is subject shall be specified in such instrument.

**5. Marriage officers under laws repealed by this Act**

- (1) Any person who, at the commencement of this Act, or of the Marriage Amendment Act, 1970, is under the provisions of any prior law authorized to solemnize any marriages, shall continue to have authority to solemnize such marriages as if such law had not been repealed, but shall exercise such authority in accordance with the provisions of this Act.

*(Section 5(1) substituted by Section 4 of Act 51 of 1970)*

*(Section 5(1) substituted by section 1(a) (of the Schedule) of Act 112 of 1990)*

- (2) Any such person shall be deemed to have been designated as a marriage officer under this Act.
- (3) ....

*(Section 5(3) inserted by Section 4 of Act 51 of 1970)*

*(Section 5(3) deleted by section 1(b) (of the Schedule) of Act 112 of 1990)*

**6. Certain persons may in certain circumstances be deemed to have been marriage officers**

- (1) Whenever any person has acted as a marriage officer during any period or within any area in respect of which he was not a marriage officer under this Act or any prior law, and the Minister or any officer in the public service authorized thereto by the Minister is satisfied that such person did so under the *bona fide* belief that he was a marriage officer during that period or within that area, he may direct in writing that such person shall for all purposes be deemed to have been a marriage officer during such period or within such area, duly designated as such under this Act or such law, as the case may be.
- (2) Whenever any person acted as a marriage officer in respect of any marriage while he was not a marriage officer and both parties to that marriage *bona fide* believed that such person was in fact a marriage officer, the Minister or any officer in the public service authorized thereto by him may, after having conducted such inquiry as he may deem fit, in writing direct that such person shall for all purposes be deemed to have been duly designated as a marriage officer in respect of that marriage.
- (3) Any marriage solemnized by any person who is in terms of this section to be deemed to have been duly designated as a marriage officer shall, provided such marriage was in every other respect

solemnized in accordance with the provisions of this Act or any prior law, as the case may be, and there was no lawful impediment thereto, be as valid and binding as it would have been if such person had been duly designated as a marriage officer.

- (4) Nothing in this section contained shall be construed as relieving any person in respect of whom a direction has been issued thereunder, from the liability to prosecution for any offence committed by him.
- (5) Any person who acts as a marriage officer in respect of any marriage, shall complete a certificate on the prescribed form in which he shall state that at the time of the solemnization of the marriage he was in terms of this Act or any prior law entitled to solemnize that marriage.

*(Section 6 substituted by section 1 of Act 45 of 1981)*

#### **7. Effect of designation of certain ministers of religion as marriage officers**

Any minister of religion who before or after the commencement of this Act was or is designated as a marriage officer while a minister of the "Nederduitse Gereformeerde Kerk in Suid-Afrika, Kaap", or of the "Nederduitse Gereformeerde Kerk van Natal", or of the "Nederduitse Gereformeerde Kerk in die Oranje-Vrystaat", or of the former "Nederduitse Hervormde of Gereformeerde Kerk van Suid-Afrika, Transvaal", or of the "Nederduitse Gereformeerde Kerk van Transvaal", shall as from the date of such designation but subject to the provisions of this Act be deemed to have been or to be a marriage officer while he remained or remains a minister of any of the said churches.

#### **8. Change of name of religious denominations or organization and amalgamation of religious denominations or organizations**

- (1) If a religious denomination or organization changes the name whereby it was known or amalgamates with any other religious denomination or organization, such change in name or amalgamation shall have no effect on the designation of any person as a marriage officer by virtue of his occupying any post or holding any position in any such religious denomination or organization.
- (2) If a religious denomination or organization in such circumstances as are contemplated in subsection (1) changes the name whereby it was known or amalgamates with any other religious denomination or organization, it shall immediately advise the Minister thereof.

#### **9. Revocation of designation as, or authority of, marriage officer and limitation of authority of marriage officer**

- (1) The Minister or any officer in the public service authorized thereto by him may, on the ground of misconduct or for any other good cause, revoke in writing the designation of any person as a

marriage officer or the authority of any other person to solemnize marriages under this Act, or in writing limit in such respect as he may deem fit the authority of any marriage officer or class of marriage officers to solemnize marriages under this Act.

- (2) Any steps taken by any officer in the public service under sub-section (1) may be set aside by the Minister.

#### **10. Solemnization of marriages in country outside of the Union**

- (1) Any person who is under the provisions of this Act authorized to solemnize any marriages in any country outside the Union -

- (a) may so solemnize any such marriage only if the parties thereto are both South African citizens domiciled in the Union; and

- (b) shall solemnize any such marriage in accordance with the provisions of this Act.

- (2) Any marriage so solemnized shall for all purposes be deemed to have been solemnized in the province of the Union in which the male party thereto is domiciled.

#### **11. Unauthorized solemnization of marriage ceremonies forbidden**

- (1) A marriage may be solemnized by a marriage officer only.
- (2) Any marriage officer who purports to solemnize a marriage which he is not authorized under this Act to solemnize or which to his knowledge is legally prohibited, and any person not being a marriage officer who purports to solemnize a marriage, shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand or, in default of payment, to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.
- (3) Nothing in sub-section (2) contained shall apply to any marriage ceremony solemnized in accordance with the rites or formularies of any religion, if such ceremony does not purport to effect a valid marriage.

#### **12. Prohibition of solemnization of marriage without production of identity document or prescribed declaration**

No marriage officer shall solemnize any marriage unless -

- (a) each of the parties in question produces to the marriage officer his or her identity document issued under the provisions of the Identification Act, 1986 (Act No. 72 of 1986);  
or

- (b) each of such parties furnishes to the marriage officer the prescribed affidavit; or
- (c) one of such parties produces his or her identity document referred to in paragraph (a) to the marriage officer and the other furnishes to the marriage officer the affidavit referred to in paragraph (b).

*(Section 12(a) amended by section 1(1) of Act 11 of 1964)*

*(Section 1(2) of Act 11 of 1964 states: In deciding on the validity of any marriage solemnized after the commencement of the Marriage Act, 1961, which has not before the commencement of this section been declared invalid by a competent court, section twelve of the said Act shall be construed as if sub-section (1) of this section was in force on the date on which such marriage was solemnized and had been in force at all relevant times prior to that date.)*

*(Section 12 substituted by section 5 of Act 51 of 1970)*

*(Section 12(a) substituted by section 2 (of the Schedule) of Act 112 of 1990)*

*(Section 12(a) substituted by Schedule II of Act 114 of 1991)*

**13. Application for publication and acceptance of banns**

*(Section 13 repealed by section 6 of Act 51 of 1970)*

**14. How publications of banns of marriage to be made**

*(Section 14 repealed by section 6 of Act 51 of 1970)*

**15. Certificate of publication of banns.**

*(Section 15(1) amended by section 2 of Act 11 of 1964)*

*(Section 15 repealed by section 6 of Act 51 of 1970)*

**16. Banns and notice of intension to marry published outside the Union**

*(Section 16 substituted by section 1 of Act 19 of 1968)*

*(Section 16 repealed by section 6 of Act 51 of 1970)*

**17. Notice of intention to marry**

*(Section 17 repealed by section 6 of Act 51 of 1970)*

**18. Certificate of publication of notice of intention to marry**

*(Section 18 repealed by section 6 of Act 51 of 1970)*

**19. Special marriage licence**

*(Section 19(7) inserted by section 2 of Act 19 of 1968)*

*(Section 19 repealed by section 6 of Act 51 of 1970)*

**20. By which marriage officer marriage may be solemnized**

*(Section 20 repealed by section 6 of Act 51 of 1970)*

**21. Period of validity of banns, notice of intention to marry and special marriage licence**

*(Section 21 repealed by section 6 of Act 51 of 1970)*

**22. Irregularities in publication of banns or notice of intention to marry or in the issue of special marriage licence**

If in the case of any marriage solemnized before commencement of the Marriage Amendment Act, 1970, the provisions of any law relating to the publication of banns or notice of intention to marry or to the issue of special marriage licences, or the applicable provisions of any law of a country outside the Union relating to the publication of banns or the publication of notice of intention to marry were not strictly complied with but such marriage was in every other respect solemnized in accordance with the provisions of this Act or, as the case may be, a former law, that marriage shall, provided there was no other lawful impediment thereto and provided such marriage has not been dissolved or declared invalid by a competent court, and provided further that neither of the parties to such marriage has after such marriage and during the life of the other, already lawfully married another, be as valid and binding as it would have been if the said provisions had been strictly complied with.,

*(Section 22 substituted by section 3 of Act 19 of 1968)*

*(Section 22 substituted by section 7 of Act 51 of 1970)*

*(Section 22 substituted by section 1 of Act 26 of 1972)*



**23. Objections to marriage**

- (1) Any person desiring to raise any objection to any proposed marriage shall lodge such objection in writing with the marriage officer who is to solemnize such marriage.
- (2) Upon receipt of any such objection the marriage officer concerned shall inquire into the grounds of the objection and if he is satisfied that there is no lawful impediment to the proposed marriage, he may solemnize the marriage in accordance with the provisions of this Act.
- (3) If he is not so satisfied he shall refuse to solemnize the marriage.

*(Section 23 substituted by Section 8 of Act 51 of 1970)*

**24. Marriage of minors**

- (1) No marriage officer shall solemnize a marriage between parties of whom one or both are minors unless the consent to the party or parties which is legally required for the purpose of contracting the marriage has been granted and furnished to him in writing.
- (2) For the purposes of sub-section (1) a minor does not include a person who is under the age of twenty-one years and previously contracted a valid marriage which has been dissolved by death or divorce.

**24A. Consequences and dissolution of marriage for want of consent of parents or guardian**

- (1) Notwithstanding anything to the contrary contained in any law or the common law a marriage between persons of whom one or both are minors shall not be void merely because the parents or guardian of the minor, or a commissioner of child welfare whose consent is by law required for the entering into of a marriage, did not consent to the marriage, but may be dissolved by a competent court on the ground of want of consent if application for the dissolution of the marriage is made -
  - (a) by a parent or guardian of the minor before he attains majority and within six weeks of the date on which the parent or guardian becomes aware of the existence of the marriage; or
  - (b) by the minor before he attains majority or within three months thereafter.
- (2) A court shall not grant an application in terms of subsection (1) unless it is satisfied that the dissolution of the marriage is in the interest of the minor or minors.

*(Section 24A inserted by Section 34 of Act 88 of 1984)*

**25. When consent of parents or guardian of minor cannot be obtained**

- (1) If a commissioner of child welfare as defined in section 1 of the Child Care Act, 1983, is after proper inquiry satisfied that a minor who is resident in the district or area in respect of which he holds office has no parent or guardian or is for any good reason unable to obtain the consent of his parents or guardian to enter into a marriage, such commissioner of child welfare may in his discretion grant written consent to such minor to marry a specified person, but such commissioner of child welfare shall not grant his consent if one or other parent of the minor whose consent is required by law or his guardian refuses to grant consent to the marriage.
- (2) A commissioner of child welfare shall, before granting his consent to a marriage under sub-section (1), enquire whether it is in the interests of the minor in question that the parties to the proposed marriage should enter into an antenuptial contract, and if he is satisfied that such is the case he shall not grant his consent to the proposed marriage before such contract has been entered into, and shall assist the said minor in the execution of the said contract.
- (3) A contract so entered into shall be deemed to have been entered into with the assistance of the parent or guardian of the said minor.
- (4) If the parent, guardian or commissioner of child welfare in question refuses to consent to a marriage of a minor, such consent may on application be granted by a judge of the Supreme Court of South Africa: Provided that such a judge shall not grant such consent unless he is of the opinion that such refusal of consent by the parent, guardian or commissioner of child welfare is without adequate reason and contrary to the interests of such minor.

*(Section 25(1) substituted by section 62 of Act 74 of 1983)*

**26. Prohibition of marriage of persons under certain age**

- (1) No boy under the age of 18 years and no girl under the age of 15 years shall be capable of contracting a valid marriage except with the written permission of the Minister or any officer in the public service authorized thereto by him, which he may grant in any particular case in which he considers such marriage desirable: Provided that such permission shall not relieve the parties to the proposed marriage from the obligation to comply with all other requirements prescribed by law: Provided further that such permission shall not be necessary if by reason of any such other requirement the consent of a judge or court having jurisdiction in the matter is necessary and has been granted.
- (2) If any person referred to in sub-section (1) who was not capable of contracting a valid marriage without the written permission of the Minister or any officer in the public service authorized thereto by him, in terms of this Act or a prior law, contracted a marriage without such permission and the Minister or such officer, as the case may be, considers such marriage to be desirable and in the

interests of the parties in question, he may, provided such marriage was in every other respect solemnized in accordance with the provisions of this Act or, as the case may be, any prior law, and there was no other lawful impediment thereto, direct in writing that it shall for all purposes be a valid marriage.

- (3) If the Minister or any officer in the public service authorized thereto by him so directs it shall be deemed that he granted written permission to such marriage prior to the solemnization thereof.

*(Section 26(1) substituted by Section 9 of Act 51 of 1970)*

*(Section 26 substituted by Section 2 of Act 45 of 1981)*

**27. Proof of age of parties to proposed marriage**

If parties appear before a marriage officer for the purpose of contracting a marriage with each other and such marriage officer reasonably suspects that either of them is of an age which debars him or her from contracting a valid marriage without the consent or permission of some other person, he may refuse to solemnize a marriage between them unless he is furnished with such consent or permission in writing or with satisfactory proof showing that the party in question is entitled to contract a marriage without such consent or permission.

**28. Marriage between person and relatives of his or her deceased or divorced spouse**

Any legal provision to the contrary notwithstanding it shall be lawful for -

- (a) any widower to marry the sister of his deceased wife or any female related to him through his deceased wife in any more remote degree of affinity than the sister of his deceased wife, other than an ancestor or descendant of such deceased wife;
- (b) any widow to marry the brother of her deceased husband or any male related to her through her deceased husband in any more remote degree of affinity than the brother of her deceased husband, other than an ancestor or descendant of such deceased husband;
- (c) any man to marry the sister of a person from whom he has been divorced or any female related to him through the said person in any more remote degree of affinity than the sister of such person, other than an ancestor or descendant of such person; and
- (d) any woman to marry the brother of a person from whom she has been divorced or any male related to her through the said person in any more remote degree of affinity than the brother of such person, other than an ancestor or descendant of such person.

**29. Time and place for and presence of parties and witnesses at solemnization of marriage and validation of certain marriages**

(1) A marriage officer may solemnize a marriage at any time on any day of the week but shall not be obliged to solemnize a marriage at any other time than between the hours of eight in the morning and four in the afternoon.

(2) A marriage officer shall solemnize any marriage in a church or other building used for religious service, or in a public office or private dwelling-house, with open doors and in the presence of the parties themselves and at least two competent witnesses, but the foregoing provisions of this subsection shall not be construed as prohibiting a marriage officer from solemnizing a marriage in any place other than a place mentioned therein if the marriage must be solemnized in such other place by reason of the serious or longstanding illness of, or serious bodily injury to, one or both of the parties.

(3) Every marriage -

(a) which was solemnized in the Orange Free State or the Transvaal before the commencement of this Act in any place other than a place appointed by a prior law as a place where for the purposes of such law a marriage shall be solemnized; or

(b) which by reason of the serious or longstanding illness of, or serious bodily injury to, one or both of the parties was solemnized before the commencement of the Marriage Amendment Act, 1968, in a place other than a place appointed by subsection (2) of this section as a place where for the purposes of this Act a marriage shall be solemnized,

shall, provided such marriage has not been dissolved or declared invalid by a competent court and provided further that neither of the parties to such marriage has after such marriage and during the life of the other, already lawfully married another, be as valid and binding as it would have been if it had been solemnized in a place appointed therefor by the applicable provisions of the prior law or, as the case may be, of this Act.

(4) No person shall under the provisions of this Act be capable of contracting a valid marriage through any other person acting as his representative.

*(Section 29 substituted by section 4 of Act 19 of 1968)*

**29A. Registration of marriages**

(1) The marriage officer solemnizing any marriage, the parties thereto and two competent witnesses shall sign the marriage register concerned immediately after such marriage has been solemnized.

- (2) The marriage officer shall forthwith transmit the marriage register and records concerned, as the case may be, to a regional or district representative designated as such under section 21(1) of the Identification Act, 1986 (Act No. 72 of 1986).

*(Section 29A inserted by the Schedule of Act 51 of 1992)*

### **30. Marriage formula**

- (1) In solemnizing any marriage any marriage officer designated under section 3 may follow the marriage formula usually observed by his religious denomination or organization if such marriage formula has been approved by the Minister, but if such marriage formula has not been approved by the Minister, or in the case of any other marriage officer, the marriage officer concerned shall put the following questions to each of the parties separately, each of whom shall reply thereto in the affirmative:

“Do you, A.B., declare that as far as you know there is no lawful impediment to your proposed marriage with C.D. here present, and that you call all here present to witness that you take C.D. as your lawful wife (or husband)?”

and thereupon the parties shall give each other the right hand and the marriage officer concerned shall declare the marriage solemnized in the following words:

"I declare that A.B. and C.D. here present have been lawfully married."

- (2) Subject to the provisions of subsection (1), a marriage officer, if he is a minister of religion or a person holding a responsible position in a religious denomination or organization, may in solemnizing a marriage follow the rites usually observed by his religious denomination or organization.
- (3) If the provisions of this section or any former law relating to the questions to be put to each of the parties separately or to the declaration whereby the marriage shall be declared to be solemnized or to the requirement that the parties shall give each other the right hand, have not been strictly complied with owing to-
- (a) an error, omission or oversight committed in good faith by the marriage officer; or
  - (b) an error, omission or oversight committed in good faith by the parties or owing to the physical disability of one or both of the parties,

but such marriage has in every other respect been solemnized in accordance with the provisions of this Act or, as the case may be, a former law, that marriage shall, provided there was no other lawful impediment thereto and provided further that such marriage, if it was solemnized before the

commencement of the Marriage Amendment Act, 1970 (Act No. 51 of 1970), has not been dissolved or declared invalid by a competent court and neither of the parties to such marriage has after such marriage and during the life of the other, already lawfully married another, be as valid and binding as it would have been if the said provisions had been strictly complied with.

*(Section 30 substituted by Section 10 of Act 51 of 1970)*

*(Section 30 amended by Section 2 of Act 26 of 1972)*

*(Section 30(1) amended by section 1 of Act 12 of 1973)*

**31. Certain marriage officers may refuse to solemnize certain marriages**

Nothing in this Act contained shall be construed so as to compel a marriage officer who is a minister of religion or a person holding a responsible position in a religious denomination or organization to solemnize a marriage which would not conform to the rites, formularies, tenets, doctrines or discipline of his religious denomination or organization.

**32. Fees payable to the marriage officers**

(1) No marriage officer may demand or receive any fee, gift or reward, for or by reason of anything done by him as marriage officer in terms of this Act: Provided that a minister of religion or a person holding a responsible position in a religious denomination or organization may, for or by reason of any such thing done by him, receive

(a) such fees or payments as were immediately prior to the commencement of this Act ordinarily paid to any such minister of religion or person in terms of the rules and regulations of his religious denomination or organization, for or by reason of any such thing done by him in terms of a prior law; or

(b) such fee as may be prescribed.

(2) Any marriage officer who contravenes the provisions of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

**33. Blessing of a marriage**

After a marriage has been solemnized by a marriage officer, a minister of religion or a person holding a responsible position in a religious denomination or organization may bless such marriage according to the rites of his religious denomination or organization.

**34. Religious rules and regulations**

Nothing in this Act contained shall prevent -

- (a) the making by any religious denomination or organization of such rules or regulations in connection with the religious blessing of marriages as may be in conformity with the religious views of such denomination or organization or the exercise of church discipline in any such case; or
- (b) the acceptance by any person of any fee charged by such religious denomination or organization for the blessing of any marriage,

provided the exercise of such authority is not in conflict with the civil rights and duties of any person.

**35. Penalties for solemnizing marriage contrary to the provisions of this Act**

Any marriage officer who knowingly solemnizes a marriage in contravention of the provisions of this Act shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

**36. Penalties for false representations or statements**

Any person who makes for any of the purposes of this Act, any false representation or false statement knowing it to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

**37. Offences committed outside the Union**

If any person contravenes any provision of this Act in any country outside the Union the Minister of Justice shall determine which court in the Union shall try such person for the offence committed thereby, and such court shall thereupon be competent so to try such person, and for all purposes incidental to or consequential on the trial of such person, the offence shall be deemed to have been committed within the area of jurisdiction of such court.

**38. Regulations**

(1) The Minister may make regulations as to-

- (a) the form and content of certificates, notices, affidavits and declarations for the purposes of this Act;

(b) the fees payable for any certificate issued or any other act performed in terms of this Act,

and, generally, as to any matter which by this Act is required or permitted to be prescribed or which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved or that the provisions of this Act may be effectively administered.

- (2) Such regulations may prescribe penalties for a contravention thereof, not exceeding, in the case of a fine, fifty rand or, in the case of imprisonment, a period of three months.
- (3) Different and separate regulations may be made under subsection (1) in respect of different areas or in respect of persons belonging to different population groups, and regulations made under subsection (1) (b) shall be made in consultation with the Minister of Finance.

*(Section 38 substituted by Section 11(1) of Act 51 of 1970)*

*(Section 11(2) of Act 51 of 1970 says: Regulations made under section 38 of the principal Act and in force at the commencement of the Marriage Amendment Act, 1970, shall be deemed to have been made under the said section, as amended by this section, and shall remain in force until amended or repealed by the competent authority.)*

### **38A. Administration of certain other laws in respect of any Bantu**

*(Section 38A inserted by Section 12 of Act 51 of 1970)*

*(Section 38A repealed by Section 2 of Act 41 of 1986)*

### **39. Repeal of laws and savings**

- (1) Subject to the provisions of sub-sections (2) to (4) inclusive, the laws specified in the Schedule are hereby repealed to the extent set out in the fourth column thereof.
- (2) Anything done under any provision of a law repealed by sub-section (1) shall be deemed to have been done under the corresponding provision of this Act (if any).
- (3) Any marriage which is validated by or is valid in terms of any law repealed by sub-section (1) shall not be effected by such repeal.
- (4) Any provision of a law repealed by sub-section (1) which applies only in respect of non-white persons or a particular class of non-white persons shall, notwithstanding the provisions of this Act, but subject to the provisions of sub-section (5), continue to apply in respect of any Native and any Asiatic in respect of whom it is applicable.



(5) .....

*(Section 39(5) deleted by Section 3 of Act 41 of 1986)*

*(Section 39(1) substituted by section 3 (of the Schedule) of Act 112 of 1990)*

**39A. Application of Act to the territory of South-West Africa, and repeal of laws of that territory**

*(Section 39A inserted by Section 13 of Act 51 of 1970)*

*(Section 39A repealed by section 4 (of the Schedule) of Act 112 of 1990)*

**40. Short title and commencement.**

This Act shall be called the Marriage Act, 1961, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

**SCHEDULE  
LAWS REPEALED**

*(Section 2 of Act 12 of 1973 says:*

- (1) The provisions of the laws specified in the Schedule shall be deemed to have ceased to apply in respect of Bantu as from 1st November, 1972.*
- (2) Proclamation No. R.298 of 1972 is hereby repealed.)*

<b>Province or Union</b>	<b>No. and Year of Law</b>	<b>Title or Subject matter</b>	<b>Extent of repeal</b>
Cape of Good Hope	Marriage Order in Council, 7 <sup>th</sup> September, 1838	Amendment of Marriage Laws.	The whole
	Order in Council, 20 <sup>th</sup> February 1839	Construction of Marriage Order in Council, 7 <sup>th</sup> September, 1838, in certain respects.	The whole
	Order in Council, 3 <sup>rd</sup> April, 1840	Amendment Marriage Order in Council, 7 <sup>th</sup> September, 1838.	The whole
	Ordinance No. 4 of 1848	Ordinance for rendering legal certain Marriages supposed to be invalid.	The whole
	Act No. 13 of 1857	Act for Removing all Doubts regarding the Validity of the Marriages of certain Military Settlers.	The whole
	Act No. 16 of 1860	"Marriage Act, 1860"	The whole
	Act No. 9 of 1882	"The Marriage Licence Act, 1882"	The whole
	Act No. 40 of 1892	"The Marriage Law Amendment Act , 1892"	The whole

	Act No. 11 of 1906	"The Marriage Law Amendment Act , 1906"	The whole
Natal	Ordinance No.17 of 1846	"Ordinance to amend the Law regarding marriages within the District of Natal"	The whole
	Law No. 2 of 1876	"To provide for the signing of Marriage Licences"	The whole
	Law No. 19 of 1881	:To provide for the appointment of Marriage Officers for the Solemnization of Marriages of persons professing the Jewish faith, and of persons professing the Mohammedan faith".	The whole
	Law No. 46 of 1887	"To regulate the Marriage of Natives by Christian Rites".	The whole, subject to the provisions of sub-section (4) of section <i>thirty-nine</i> of this Act.
	Law No. 7 of 1889	"The Marriage Licence Law, 1889".	The whole
	Law No. 25 of 1891	"Indian Immigration Law, 1894".	Sections <i>sixty-five</i> to <i>seventy-two</i> inclusive, <i>seventy-five</i> and <i>eighty-one</i> , subject to the provisions of sub-section (4) of section <i>thirty-nine</i> of this Act.
	Act No. 45 of 1898	"To repeal and re-enact with certain amendments, Act No. 15 of 1897, entitled 'Act for removing a certain Restriction upon Marriage within the Colony of Natal'".	The whole
	Act No. 44 of 1903	"To amend the Law relating to Marriages of Natives by Christian Rites".	The whole, subject to the provisions of sub-section (4) of section <i>thirty-nine</i> of this Act.
Orange Free State	Law No. 22 of 1898	"Over Assistent Landdrosten"	The whole
	Law No. 26 of 1899	"De Huwelijkswet"	The whole
	Ordinance No. 27	"Validation of Marriages Ordinance, 1902".	The whole

	of 1902		
	Ordinance No. 31 of 1903	"Marriage (Prohibited Degrees) Ordinance, 1903".	The whole
Transvaal	Law No. 3 of 1871	"Huwelijks Ordannantie"	The whole
	Volksraad Resolution, 15 <sup>th</sup> May 1883, Art. 74	Legalization of certain Marriages.	The whole
	Volksraad Resolution, 7 <sup>th</sup> May, 1885, Art. 53	Legalization of certain Marriages.	The whole
	First Volksraad Resolution, 10 <sup>th</sup> December, 1896, Art. 2286	"Recht tot huwelijksbevestiging door de Hollandsche Consuls en Consulaire ambtenaren in de Z.A.R.".	The whole
	Law No. 3 of 1897	"Regelende de huwelijken van Kleurlingen binnen de Zuid-Afrikaansche Republiek".	The whole, subject to the provisions of subsection (4) of section <i>thirty-nine</i> of this Act.
	Proclamation No. 6 of 1900	Native Marriages by Christian Rites.	The whole, subject to the provisions of sub-section (4) of section <i>thirty-nine</i> of this Act.
	Proclamation No. 2 of 1901	Amendment of Marriage Laws as to officer granting special licences.	The whole
	Proclamation No. 25 of 1902	Amending Law No. 3 of 1897.	The whole
	Proclamation No. 31 of 1902	"Legalization of Marriages Proclamation, 1902".	The whole
	Ordinance No. 26 of 1902	"Legalization of Marriages Ordinance 1902".	The whole
Ordinance No. 29 of 1903	Legalization of Marriages of Coloured Persons Ordinance, 1903.	The whole	
Ordinance No. 39 of 1904	Marriage Law Amendment Ordinance 1904.	The whole	
Ordinance No. 33	The Legalization of Marriages Ordinance 1905.	The whole	

	of 1905		
	Act No. 13 of 1909	Marriage Law Amendment Act 1909	The whole
	Act No.13 of 1909	Marriage Law Amendment Act, 1909	The whole
Union	Act No.20 of 1913	Marriage Laws Amendment Act, 1913	The whole
	Act No.43 of 1916	Marriage Officers Act, 1916	The whole
	Act No. 11 of 1920	Natal and Transvaal Marriage Law Amendment Act, 1920.	The whole
	Act No. 17 of 1921	Marriage Law Amendment Act, 1921	The whole
	Act No. 41 of 1927	Orange Free State Marriage Law Amendment Act, 1927.	The whole
	Act No. 7 of 1934	Births, Marriages and Deaths Registration Amendment Act, 1934	Section <i>ten</i> and <i>eleven</i> .
	Act No. 8 of 1935	Marriage Law Amendment Act, 1935	The whole
	Act No. 21 of 1943	Native Administration (Amendment) Act, 1943	Section <i>twelve</i> .
	Act No. 13 of 1945	Publication of Banns Amendment Act, 1945	The whole
	Act No. 32 of 1952	General Law Amendment Act, 1952	Section <i>seven</i>
	Act No. 25 of 1954	Marriage Officers Amendment Act, 1954	The whole
	Act No. 68 of 1957	General Law Amendment Act, 1957	Section <i>eight</i>