

MARRIAGE ACT 25 OF 1961

[ASSENTED TO 19 APRIL 1961] [DATE OF COMMENCEMENT: 1 JANUARY 1962

but made applicable in Namibia only with effect
from 1 February 1972 by Act 51 of 1970]

(Signed by the President)

as amended by

Marriage Amendment Act 11 of 1964

Marriage Amendment Act 19 of 1968

Marriage Amendment Act 51 of 1970

Marriage Amendment Act 26 of 1972

Marriage Amendment Act 12 of 1973

Marriage Amendment Proclamation A.G. 8 of 1977

Marriages, Births and Deaths Amendment Act 5 of 1987

Married Persons Equality Act 1 of 1996

General Note:

Section 25 of Act 1 of 1996:

"Minister" for "Minister" wherever it appears in the Act.

ACT

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

ARRANGEMENT OF SECTIONS

- 1 Definitions
- 2 Ex officio marriage officers and designation of persons in service of State as marriage officers
- 3 Designation of ministers of religion and other persons attached to churches as marriage officers
- 4 How designation as marriage officer to be made
- 5 Marriage officers under laws repealed by this Act
- 5bis Authority of marriages officer in South West Africa
- 6 Certain persons may in certain circumstances be deemed to have been marriage officers
- 7 Effect of designation of certain ministers of religion as marriage officers
- 8 Change of name of religious denomination or organization and amalgamation of religious denominations or organizations
- 9 Revocation of designation as or authority of marriage officer and limitation of authority of marriage officer
- 10 Solemnization of marriages in country outside the Union
- 11 Unauthorized solemnization of marriage ceremonies forbidden
- 12 Prohibition of solemnization of marriage without production of identity document or prescribed declaration-
- 13 and 14
- 15
- 16
- 17 and 18
- 19
- 20 and 21
- 22 Irregularities in publication of banns or notice of intention to marry or in the issue of special marriage licences

23	Objections to marriage
24	Marriage of minors
25	When consent of parents or guardian of minor cannot be obtained
26	Prohibition of marriage of persons under certain ages
27	Proof of age of parties to proposed marriage
28	Marriage between person and relatives of his or her deceased or divorced spouse
29	Time and place for and presence of parties and witnesses at solemnization of marriage and validation of certain marriages
30	Marriage formula
31	Certain marriage officers may refuse to solemnize certain marriages
32	Fees payable to marriage officers
33	Blessing of a marriage
34	Religions rules and regulations
35	Penalties for solemnizing marriage contrary to the provisions of this Act
36	Penalties for false representations or statements
37	Offences committed outside the Union
38	Regulations
38A
39	Repeal of laws and savings
39A	Application of Act to the territory of South-West Africa and repeal of laws of that territory
40	Short title and commencement Schedule - Laws repealed

[a25y1961s1]1Definitions

In this Act, unless the context otherwise indicates-
"Commissioner"

[Definition of "Commissioner" substituted by sec 1 of Act 51 of 1970 and amended by sec 1 of Proc A.G. 3 of 1979 and sec 1 of Act 10 of 1979 and deleted by sec 1(a) of Act 5 of 1987.]

"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 Home Affairs.

[Definition of "Minister" substituted by sec 1(b) of Act 51 of 1970 and amended by sec 1(b) of Act 5 of 1987 and substituted by sec 23 of Act 1 of 1996.]

"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 sec 1(c) of Act 51 of 1970.]

[a25y1961s2]2Ex officio marriage officers and designation of persons in service of State as marriage officers

(1) Every magistrate and every special justice of the peace shall by virtue of his office, so long as he holds such office, be a marriage officer for the district or other area in respect of which he holds office.

[Subsec (1) substituted by sec 2 of Act 5 of 1987.]

(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 subject to the provisions of section (5)bis for any specified population group or class of persons or country or area.

[Subsec (2) amended by sec 2 of Act 51 of 1970 and sec 1 of Proc AG. 8 of 1977.]

[a25y1961s3]3Designation 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 subsection (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.

[Para (c) amended by sec 3 of Act 51 of 1970 and sec 2 of Proc AG. 8 of 1977.]

[a25y1961s4]4How 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.

[a25y1961s5]5Marriage officers under laws repealed by this Act

(1) Subject to the provisions of subsection (3), 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.

[Subsec (1) substituted by sec 4(a) of Act 51 of 1970.]

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

(3) Any such person whose authority to solemnize any marriages in the Republic is at the commencement of the Marriage Amendment Act, 1970, not limited to a specified area, shall be deemed to have been designated as a marriage officer for solemnizing marriages in the territory of South-West Africa also, and any such person whose authority to solemnize any marriages in the said territory is at such commencement not limited to a specified area, shall be deemed to have been designated as a marriage officer for solemnizing marriages in the Republic also.

[Subsec (3) added by sec 4(b) of Act 51 of 1970.]

[a25y1961s5bis]5bis Authority of marriages officer in South West Africa

Notwithstanding anything to the contrary contained in this Act or a prior law or in any written instrument issued in terms of section 4 or a prior law, any person who is a marriage officer for the territory of South West Africa or any part of it, may solemnize marriage in that territory or on such part of it, as the case may be, between persons generally and not only between persons belonging to any particular population group or class of persons.

[Sec 5bis inserted by sec 3 of Proc A.G. 8 of 1977.]

[a25y1961s6]6Certain 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 Government 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, it or 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 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 Government service authorized thereto by the Minister may after having conducted such inquiry as it or deem fit, in writing direct that such person shall for all purpose 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 this Act or any prior law entitled to solemnize that marriage.

[Sec 6 substituted by sec 3 of Act 5 of 1987.]

[a25y1961s7]7Effect 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.

[a25y1961s8]8Change of name of religious denomination 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.

[a25y1961s9]9Revocation 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 subsection (1) may be set aside by the Minister.

[a25y1961s10]10 Solemnization of marriages in country outside 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.

[a25y1961s11]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 R1 000 or, in default of payment, to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

[Subsec (2) substituted by sec 4 of Act 5 of 1987.]

(3) Nothing in subsection (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.

[a25y1961s12]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 of Persons Act, 1979 (Act 2 of 1979), or any other satisfactory proof of identity; and

(b) each of such parties furnishes to the marriage officer the prescribed affidavit.

[Sec 12 substituted by sec 5 of Act 5 of 1987.]

[a25y1961s13 and 14]13 and 14

[Secs 13 and 14 repealed by sec 6 of Act 51 of 1970.]

[a25y1961s15]15

[Sec 15 amended by sec 2 of Act 11 of 1964 and repealed by sec 6 of Act 51 of 1970.]

[a25y1961s16]16

[Sec 16 substituted by sec 1 of Act 19 of 1968 and repealed by sec 6 of Act 51 of 1970.]

[a25y1961s17 and 18]17 and 18

[Secs 17 and 18 repealed by sec 6 of Act 51 of 1970.]

[a25y1961s19]19

[Sec 19 amended by sec 2 of Act 19 of 1968 and repealed by sec 6 of Act 51 of 1970.]

[a25y1961s20 and 21]20 and 21

[Secs 20 and 21 repealed by sec 6 of Act 51 of 1970.]

[a25y1961s22]22 Irregularities in publication of banns or notice of intention to marry or in the issue of special marriage licences

If in the case of any marriage solemnized before the 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.

[Sec 22 substituted by sec 3 of Act 19 of 1968, amended by sec 7 of Act 51 of 1970 and substituted by sec 1 of Act 26 of 1972.]

[a25y1961s23]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.

[Sec 23 substituted by sec 8 of Act 51 of 1970.]

[a25y1961s24]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 subsection (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.

[a25y1961s25]25 When consent of parents or guardian of minor cannot be obtained

(1) If a commissioner of child welfare as defined in section one of the Children's Act, 1960 (Act 33 of 1960), 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 the minor is such a pupil or child as is mentioned in paragraph (a) of subsection (1) of section fifty-nine of the said Act or 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 subsection (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.

[a25y1961s26]26 Prohibition of marriage of persons under certain ages

(1) No boy or girl under the age of 18 years shall be capable of contracting a valid marriage except with the written permission of the Minister or any staff member in the Public Service authorized thereto by the Minister, which he or she may grant in any particular case

in which he or she 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.

[Subsec(1) substituted by sec 24 of Act 1 of 1996.]

(2) If any person referred to in subsection (1) who was not capable of contracting a valid marriage without the written permission of the Minister or any officer in the Government Service authorised thereto by the Minister, 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, it or 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 Government Service authorised thereto by the Minister so directs it shall be deemed that it or he granted written permission to such marriage prior to the solemnization thereof.

[Sec 26 amended by sec 9 of Act 51 of 1970 and substituted by sec 6 of Act 5 of 1987.]

[a25y1961s27]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.

[a25y1961s28]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.

[a25y1961s29]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.

[Sec 29 substituted by sec 4 of Act 19 of 1968.]

[a25y1961s30]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."

[Subsec (1) substituted by sec 1 of Act 12 of 1973.]

(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 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.

[Sec 30 substituted by sec 10 of Act 51 of 1970.]

[Subsec (3) added by sec 2 of Act 26 of 1972.]

[a25y1961s31]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.

[a25y1961s32]32 Fees payable to 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 subsection (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.

[a25y1961s33]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.

[a25y1961s34]34 Religions 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.

[a25y1961s35]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.

[a25y1961s36]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.

[a25y1961s37]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.

[a25y1961s38]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.

[Subsec (1) amended by sec 11(1)(a) of Act 51 of 1970.]

(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.

[Subsec (3) added by sec 11(1)(b) of Act 51 of 1970.]

[a25y1961s38A]38A

[Sec 38A inserted by sec 12 of Act 51 of 1970, amended by sec 1 of Proc A.G. 3 of 1979 and repealed by sec 7 of Act 5 of 1987.]

[a25y1961s39]39 Repeal of laws and savings

(1) Subject to the provisions of subsections (2) to (5) inclusive, the laws specified in the Schedule are hereby repealed to the extent set out in the fourth column thereof, except in so far as they apply in the territory of South-West Africa.

(2) Anything done under any provision of a law repealed by subsection (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 subsection (1) shall not be effected by such repeal.

(4)

(5)

[Subsecs (4) and (5) deleted by sec 8 of Act 5 of 1987.]

[a25y1961s39A]39A Application of Act to the territory of South-West Africa and repeal of laws of that territory

(1) This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

(2) A reference in this Act to "Union or province of the Union" shall be deemed to include a reference to the territory of South-West Africa.

(3) The Marriage Ordinance, 1963 (Ordinance 33 of 1963), sections 16 and 17 of the General Law Amendment Ordinance, 1965 (Ordinance 36 of 1965), and the Marriage Amendment Ordinance, 1967 (Ordinance 18 of 1967), of the territory of South-West Africa are hereby repealed.

(4) Anything done under any provision of a law repealed by subsection (3) shall be deemed to have been done under the corresponding provision of this Act (if any).

(5) Any marriage which is validated by or is valid in terms of any law repealed by subsection (3) shall not be affected by such repeal.

[Sec 39A inserted by sec 13 of Act 51 of 1970.]

[a25y1961s40]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

PROVINCE OR UNION	NO. AND YEAR OF LAW	TITLE OR SUBJECT MATTER
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EXTENT OF REPEAL

Cape of Good Hope	Marriage Order in Council, 7th September, 1838	Amendment of Marriage Laws
	The whole	
	Order in Council 20th February 1839	Construction of Marriage Order in Council, 7th September, 1838, in certain respects
	The whole	
	Order in Council 3rd April, 1840	Amendment of Marriage Order in Council, 7th September, 1838
	The whole	
	Ordinance 4 of 1848	Ordinance for rendering legal certain Marriages supposed to be invalid
	The whole	
	Act 13 of 1857	Act for Removing all Doubts regarding the Validity of the Marriages of certain Military Settlers
	The whole	
	Act 16 of 1860	"Marriage Act, 1860"
	The whole	
	Act 9 of 1882	"The Marriage Licence Act, 1882"
	The whole	
	Act 40 of 1892	"The Marriage Law Amendment Act 1892"
	The whole	
	Act 11 of 1906	"The Marriage Law Amendment Act 1906"
	The whole	
Natal	Ordinance 17 of 1846	"Ordinance to amend the Law regarding marriages within the District of Natal"
	The whole	
	Law 2 of 1876	"To provide for the signing of Marriage Licences"
	The whole	
	Law 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 46 of 1887	"To regulate the Marriage of Black by Christian Rites"
	The whole, subject to the provisions of subsection (4) of section thirty-nine of this Act	
	Law 7 of 1889	"The Marriage Licence Law, 1889"
	The whole	
	Law 25 of 1891	"Indian Immigration Law, 1891"
	Sections sixty-five to seventy-two inclusive, seventy-five and eighty-one, subject to the provisions of subsection (4) of section thirty-nine of this Act	
Natal cont.	Act 45 of 1898	"To repeal and re-enact with certain amendments, Act 15 of 1897, entitled Act for removing a certain Restriction upon Marriage within the Colony of Natal"
	The whole	
	Act 44 of 1903	"To amend the Law relating to Marriages of Black by Christian Rites"
	The whole, subject to the provisions of subsection (4) of section thirty-nine of this Act	
Orange Free State	Law 22 of 1898	"Over Assistent Landdrosten"
	The whole	
	Law 26 of 1889	"De Huwelijkswet"
	The whole	
	Ordinance 27 of 1902	"Validation of Marriages Ordinance 1902"
	The whole	
	Ordinance 31 of 1903	"Marriage (Prohibited Degrees) Ordinance, 1903"
	The whole	
Transvaal	Law 3 of 1871	"Huwelijks Ordonnantie"
	The whole	
	Volksraad Resolution 15th May, 1883, Art. 74	Legalization of certain Marriages
	The whole	
	Volksraad Resolution, 7th May, 1885, Art. 53	Legalization of certain Marriages
	The whole	

First Volksraad Resolution, 10th December, 1896, Art. 2286 "Recht tot huwelijksbevestiging door de Hollandsche Consuls en Consulaire ambtenaren in de Z.A.R." The whole

Law 3 of 1897 "Regelende de huwelijken van Kleurlingen binnen de Zuid-Afrikaansche Republiek" The whole, subject to the provisions of subsection (4) of section thirty-nine of this Act

Proclamation 6 of 1900. Black Marriages by Christian Rites The whole, subject to the provisions of subsection (4) of section thirty-nine of this Act

Proclamation 2 of 1901 Amendment of Marriage Laws as to officer granting special licences The whole

Proclamation 25 of 1902 Amending Law 3 of 1897 The whole

Proclamation 31 of 1902 "Legalization of Marriages Proclamation, 1902" The whole

Ordinance 26 of 1902 "Legalization of Marriages Ordinance 1902" The whole

Transvaal-continued Ordinance 29 of 1903 Legalization of Marriages of Coloured Persons Ordinance, 1903 The whole

Ordinance 39 of 1904 Marriage Law Amendment Ordinance 1904 The whole

Ordinance 33 of 1905 The Legalization of Marriages Ordinance, 1905 The whole

Act 13 of 1909 Marriage Law Amendment Act, 1909 The whole

Act 20 of 1913 Marriage Laws Amendment Act, 1913 The whole

Act 43 of 1916 Marriage Officers Act, 1916 The whole

Act 11 of 1920 Natal and Transvaal Marriage Law Amendment Act, 1920 The whole

Act 17 of 1921 Marriage Law Amendment Act, 1921 The whole

Act 41 of 1927 Orange Free State Marriage Law Amendment Act, 1927 The whole

Act 7 of 1934 Births, Marriages and Deaths Registration Amendment Act, 1934 Sections ten and eleven

Act 8 of 1935 Marriage Law Amendment Act, 1935 The whole

Act 21 of 1943 Black Administration (Amendment) Act 1943 Section twelve

Act 13 of 1945 Publication of Banns Amendment Act 1945 The whole

Act 32 of 1952 General Law Amendment Act, 1952 Section seven

Act 25 of 1954 Marriage Officers Amendment Act 1954 The whole

Act 68 of 1957 General Law Amendment Act, 1957 Section eight