



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 393

2024

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 14 of 2024: Marriage Act, 2024.

Act No. 14, 2024**MARRIAGE ACT, 2024****ACT**

To regulate the solemnisation of marriages; to provide for the validation and recognition of certain marriages; and to provide for incidental matters.

(Signed by the President on 2 October 2024)

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BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

PART 1

INTRODUCTORY PROVISIONS

Definitions

1. (1) In this Act, unless the context otherwise indicates –

“children’s commissioner” means a children’s commissioner as defined in section 1 of the Child Care and Protection Act, 2015 (Act No. 3 of 2015);

“Civil Register” means the Civil Register as defined in section 1 of the Civil Registration and Identification Act;

“Civil Registration and Identification Act” means the Civil Registration and Identification Act, 2024 (Act No. 13 of 2024);

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“customary marriage” means a marriage –

- (a) concluded or recognised in terms of any customary law of Namibia; or
- (b) concluded or recognised in terms of the customary law of a country other than Namibia,

but excludes –

- (i) a marriage or marital union between persons of the same sex wherever concluded; or
- (ii) a marriage or marital union concluded in a country other than Namibia which is not capable of being validly concluded in Namibia;

“divorce” means divorce as defined in section 1 of the Dissolution of Marriages Act, 2024 (Act No. 10 of 2024);

“Executive Director” means the Executive Director of the Ministry responsible for home affairs;

“foreign marriage” means a marriage which –

- (a) is entered into outside Namibia voluntarily between persons of the opposite sex who are 18 years or older; and
- (b) meets the requirements of section 31;

“foreign national” means a person who is not a Namibian citizen;

“full age”, subject to section 9(2), means the age of 18 years or older;

“intending spouses” means a man and a woman of full age who wish to marry each other in terms of this Act but whose marriage has not yet been solemnised;

“local authority area” means a local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“magistrate” means a person appointed as a magistrate by the Minister responsible for justice in terms of the Magistrates Act and includes a relief magistrate but does not include an assistant magistrate;

“Magistrates Act” means the Magistrates Act, 2003 (Act No. 3 of 2003);

“marriage” means a legal union –

- (a) entered into voluntarily between two persons of the opposite sex and of full age; and
- (b) solemnised or validated in terms of this Act or the repealed law; or
- (c) recognised in terms of the Recognition of Certain Marriages Act, 1991 (Act No. 18 of 1991);

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“marriage certificate” means a certificate issued by a marriage officer or by a registrar indicating that the two persons named in the certificate have been married in accordance with the provisions of this Act or the repealed law and includes in some instances a document issued by another State certifying that a marriage has been concluded between the two persons named in the certificate;

“marriage officer” means any person designated under section 2 or 3 as a marriage officer or any magistrate authorised under section 4 to be a marriage officer for the purposes of this Act;

“marriage record” means a record of a specific marriage documented by the marriage officer who solemnised the marriage and containing the information prescribed by this Act;

“marriage register” means the portion of the Civil Register where information about marriages, divorces and other marital severances are recorded;

“Minister” means the Minister responsible for home affairs;

“Ministry” means the Ministry responsible for home affairs;

“minor” means a person who has not attained the age of 18 years;

“objection” means information pertaining to a possible legal impediment to the conclusion of a marriage between two persons;

“opposite sex” means the –

(a) male sex in relation to the female sex

(b) female sex in relation to the male sex,

sex being as determinatively assigned for purposes of birth registration;

“other marital severance” means a court order of annulment of a marriage or a determination by a competent court that a marriage is void from the beginning;

“passport” means a passport as defined in section 1 of the Immigration Control Act, 1993 (Act No. 7 of 1993);

“place of marriage”, in respect of a marriage that takes place in Namibia, means the local authority area where the marriage is solemnised, or, if the marriage is solemnised outside the boundaries of a local authority area, the settlement area in the case of a marriage which is solemnised in a settlement area and if the marriage did not take place in a local authority area or settlement area, the name of the constituency and place at which the marriage is solemnised;

“pre-marriage confirmation” means a confirmation for the purpose of marriage issued in terms of section 16;

“prescribed” means prescribed by regulations made under this Act;

“register” includes books, registers or records of any marriages concluded prior to the commencement of this Act;

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“registrar” means the staff member of the Ministry designated as a registrar in terms of section 3 of the Civil Registration and Identification Act;

“Registrar-General” means the staff member of the Ministry designated as Registrar-General in terms of section 3 of the Civil Registration and Identification Act;

“regulations” means the regulations made under this Act;

“repealed law” means the laws repealed by section 45;

“settlement area” means settlement area as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

“spouse” means a person, whether male or female, who is married to a person of the opposite sex and includes such person who is a party to a foreign marriage;

“staff member” means a staff member as defined in section 1(1) of the Public Service Act, 1995 (Act No. 13 of 1995);

“this Act” includes the regulations; and

“witness” means a person who is –

- (a) present at all material portions of the event in question;
- (b) of sound mind;
- (c) 18 years or older; and
- (d) a Namibian citizen or permanent resident of Namibia who is in possession of a valid Namibian identification document or any other document issued by a competent government authority which contains the photograph of the bearer, provided that such bearer is recorded in the Civil Register, or a non-Namibian citizen in possession of a valid passport and permit to be in Namibia and who has been granted permission by the Registrar-General to be a witness to a marriage in Namibia.

(2) Despite anything to the contrary in this Act or in any other law, reference in any law of Namibia to the phrase customary marriage, marriage or spouse must for all intents and purposes be construed as reference to the phrase “customary marriage”, “marriage” or “spouse” as defined in subsection (1).

Designation of staff members as marriage officers

2. Subject to section 5, the Minister may designate a staff member of the Ministry who occupies a position at a prescribed grade in the Public Service as a marriage officer.

Designation of members of religious denominations or organisations as marriage officers

3. (1) Subject to section 4, the Minister may, on application, designate a member of a religious denomination or organisation as a marriage officer to solemnise marriages according to the rites of that religion and the requirements of this Act.

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(2) An application referred to in subsection (1) must be made in the prescribed form and manner by the governing body of the religious denomination or organisation.

(3) A member of a religious organisation or denomination may not be designated as a marriage officer under subsection (1) unless he or she is actively serving as a minister of religion or in an equivalent position in that denomination or organisation.

(4) A religious denomination or organisation which makes an application for the designation of marriage officer under subsection (1) must satisfy the Minister that it complies with the prescribed criteria for recognition as a religious denomination or organisation.

Authorisation of magistrates as marriage officers and revocation of authorisation

4. (1) Subject to subsection (2), a magistrate is authorised to act as a marriage officer for the magisterial district in respect of which he or she holds office, for as long as he or she holds such office, unless the authorisation is revoked in terms of subsection (6).

(2) A magistrate may act as a marriage officer only after being assigned a marriage officer number by the Minister.

(3) A magistrate may not delegate or assign to another person any of the powers or functions assigned to a marriage officer under this Act.

(4) The Minister may prescribe a process for reviewing the authorisation of marriage officers under this section from time to time and may prescribe additional conditions for such authorisation or for the validation of such authorisation.

(5) If the Minister becomes aware of any alleged misconduct or failure to comply with this Act by a magistrate who is authorised to be a marriage officer under subsection (1), the Minister must in writing notify the Magistrates Commission of the alleged misconduct or failure of such magistrate to comply with this Act for appropriate action to be taken under the Magistrates Act.

(6) The Minister may revoke the authorisation of a magistrate as a marriage officer after consultation with the Minister responsible for justice and the Magistrates Commission and after –

- (a) giving the magistrate written notice in the prescribed form and manner of the alleged misconduct or failure to comply; and
- (b) allowing the magistrate to make written representations to the Minister within a period specified in the notice.

Rules applicable to designation of persons as marriage officers

5. (1) A person may be designated as a marriage officer under section 2 or 3 only if that person –

- (a) successfully completes the training and testing; and
- (b) satisfies any additional qualifications,

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as may be prescribed by the Minister.

(2) The designation of a person as a marriage officer under section 2 or 3 must be in writing, signed by the Minister, and must state –

- (a) the date from which the designation is effective;
- (b) the period for which the designation is effective, which may be any specified time or, if applicable, the period during which such marriage officer holds a specified position in the public service;
- (c) the constituency, region or other area in respect of which the designation is effective;
- (d) any applicable limitations and conditions; and
- (e) the marriage officer number assigned by the Minister.

(3) The Minister is not obliged to designate a person who fulfils the criteria for being a marriage officer under section 2 or 3, if the Minister is satisfied that there is a sufficient number of marriage officers already designated to meet the needs of the constituency, region or other area concerned or the country as a whole.

(4) A marriage officer designated under section 2 or 3 may not delegate or assign to another person any of the powers or functions assigned to a marriage officer under this Act.

(5) A marriage officer may be re-designated in writing as a marriage officer on the expiry of his or her previous designation if the marriage officer –

- (a) complies with the prescribed criteria for marriage officers; and
- (b) makes an application to the Minister in the prescribed form in terms of section 3.

(6) The Minister may prescribe from time to time a process for reviewing the designation of marriage officers and may prescribe additional conditions for such designations or for the validation of such designations.

(7) A marriage officer who contravenes or fails to comply with subsection (4) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Resignation or revocation of designation as marriage officer

6. (1) A marriage officer who is no longer willing or able to act in that capacity must in writing resign from his or her position as a marriage officer.

(2) A marriage officer who leaves his or her position in the relevant religious denomination or organisation must in writing resign from his or her position as a marriage officer.

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(3) A resignation referred to in subsection (1) or (2) must be addressed to the Minister.

(4) If a marriage officer, who is no longer in active service in the relevant religious denomination or organisation, has not submitted a letter of resignation under subsection (2), the designation of that marriage officer is automatically revoked in accordance with the procedures set out in subsections (5) to (7).

(5) A religious denomination or organisation which has successfully applied for the designation of one or more marriage officers in terms of section 3(1) must submit to the registrar an annual return not later than 31 March of each year, confirming that all its members designated as marriage officers in terms of that section remain in active service in the religious denomination or organisation in question.

(6) If a religious denomination or organisation fails to submit an annual return, within the required time under subsection (5), the designation of all marriage officers for that religious denomination or organisation is deemed to be revoked as of 30 April of that year.

(7) If a marriage officer designated in respect of a religious denomination or organisation is no longer listed as being in active service in the annual return submitted under subsection (5), the designation of that person as a marriage officer is deemed to be revoked as of 30 April of that year.

(8) A marriage officer who contravenes or fails to comply with subsection (1), (2) or (4) commits an offence and on conviction is liable to a fine not exceeding N\$ 10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Revocation due to misconduct or failure to comply with Act

7. (1) This section applies if the Minister becomes aware of any alleged misconduct or failure to comply with this Act by a marriage officer designated under section 2 or 3.

(2) The Minister may in writing revoke the designation of the marriage officer designated under section 2 after –

- (a) giving the marriage officer a written notice in the prescribed form and manner of the alleged misconduct or failure to comply; and
- (b) allowing the marriage officer or his or her representative to make written representations to the Minister within a period specified in the notice after which the Minister must make a decision and inform the marriage officer in writing of the decision.

(3) The Minister may in writing revoke the designation of the marriage officer designated under section 3 after –

- (a) giving a written notice of the alleged misconduct or failure to comply with the Act in the prescribed form and manner, to the head of the relevant religious denomination or organisation, if any, or its representative; and
- (b) allowing that head or representative to make written representations to the Minister within a period specified in the notice.

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(4) If the Minister is of the view that the misconduct does not warrant a revocation of the designation, he or she may take such other action against the marriage officer that the Minister considers appropriate, including directing the marriage officer to take certain actions or refrain from taking certain actions.

Transitional provisions for existing marriage officers

8. (1) A person other than a magistrate who immediately before the commencement of this Act had the authority to solemnise marriages –

- (a) is deemed to have been designated as a marriage officer under this Act for a period of 12 months from the date of commencement of this Act; and
- (b) must, if the person wishes to continue to perform the duties of a designated marriage officer after the end of the period referred to in paragraph (a), apply for re-designation or arrange for application by the relevant religious denomination or organisation for his or her re-designation as a marriage officer before the expiry of that period.

(2) A marriage officer who does not comply with the criteria for marriage officers set out in this Act may not be re-designated in terms of this section after the 12 months period referred to in subsection (1)(a).

(3) If an application has been made for the re-designation of a marriage officer under subsection (1)(b), that marriage officer is deemed to have been authorised to solemnise marriages in terms of this Act until the Minister has decided on the application, even if the 12-month period referred to in subsection (1)(a) has expired.

PART 2**PREREQUISITES TO SOLEMNISATION OF MARRIAGE****Prohibition of marriage of minors and consent required for marriage of persons below age of 21**

9. (1) The Registrar-General or a registrar may not issue a pre-marriage confirmation in respect of a marriage between persons one of whom is or both of whom are under the age of 18 years.

(2) A person who has attained the age of 18 but has not yet attained the age of 21 cannot conclude a marriage under this Act without the written consent of –

- (a) one or both parents of the person, depending on their marital status and relevant parental powers;
- (b) a legal guardian of the person; or
- (c) any person who is authorised to give such consent under any other law on parental consent to marriage or under any court order.

(3) The written consent referred to in subsection (2) must be submitted in the prescribed form and manner.

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10. (1) If the consent of one or both parents, a legal guardian or other person referred to in section 9(2)(c) cannot be obtained or is unreasonably refused, a children's commissioner may give consent to the marriage in accordance with this section.

(2) If the consent of one or both parents, a legal guardian or other person referred to in section 9(2)(c) cannot be obtained because the parent or guardian –

- (a) is dead or presumed dead;
- (b) cannot be located after a reasonable search;
- (c) is outside Namibia and impossible to contact; or
- (d) suffers from a medical condition or has a disability which renders him or her incapable of giving consent,

a children's commissioner may grant consent to the marriage with the same effect as if it had been given by that person or persons, subject to subsection (4).

(3) If one or both parents, a legal guardian or other person referred to in section 9(2)(c) unreasonably refuses to give consent, contrary to the best interests of the intending spouse concerned, a children's commissioner may grant consent to the marriage subject to subsection (4) with the same effect as if consent had been given by one or both parents, a legal guardian or such other person.

(4) A children's commissioner may give consent to a marriage under subsection (2) or (3) only if he or she –

- (a) has considered a report by a social worker on the question of whether the marriage would be in the best interests of the intending spouses;
- (b) has considered any recommendations or submissions from the Minister; and
- (c) is convinced on a balance of probabilities that giving the consent would be in the best interests of the intending spouses.

(5) For the avoidance of doubt, consent to marry granted under this section does not release the persons to the proposed marriage from the obligation to comply with the other requirements of this Act.

Prohibited and acceptable marriages between persons who are related by blood, marriage or adoption

11. (1) A person may not lawfully marry another person by virtue of consanguinity, affinity or an adoptive relationship of –

- (a) ascendants and descendants in the direct line;
- (b) persons who are collaterals related by blood if either of them is related to their common ancestor in the first degree of descent, which for the

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avoidance of doubt does not prohibit marriage between first cousins or cousins in any other degree; or

- (c) an adoptive parent or child, under a legal adoption concluded under any law.
- (2) Despite any law to the contrary, it is lawful for –
 - (a) a widow, widower or divorced spouse to marry a sibling of his or her former spouse or any other person related to him or her in any more remote degree of affinity than such sibling, other than an ancestor or descendant of a former spouse; and
 - (b) any spouse to marry a step-parent of his or her divorced or deceased spouse.

(3) The Minister may make regulations which provide examples of relationships covered by these rules for purposes of clarification.

Notification of intention to marry and issuance of pre-marriage confirmation

12. (1) Intending spouses must jointly and in person notify the Registrar-General of their intention to marry, at least 90 days before the intended date of their marriage, through a registrar in the region where either of the intending spouses normally reside or where the marriage is intended to be solemnised.

(2) The notification made by intending spouses in terms of subsection (1) must be made in the prescribed form and manner and be accompanied by or indicate –

- (a) prescribed documents to prove the identity of the intending spouses;
- (b) original consents required under section 9 or 10 due to the age of one or both intending spouses;
- (c) proof of divorce, other marital severance or death of either intending spouse's previous spouse or spouses, if any;
- (d) a sworn declaration by each intending spouse that he or she is not currently a spouse in a marriage or a foreign marriage, and that there is no other known legal impediment to the marriage;
- (e) the date of the intended marriage;
- (f) the intended place of marriage;
- (g) the name of the marriage officer who is expected to solemnise the marriage;
- (h) information as to whether either intending spouse is a party to a subsisting customary marriage and, if so, the full names, surnames, identity numbers and other prescribed information of the customary spouse or spouses;
- (i) the matrimonial property regime which the intending spouses choose to apply to their matrimonial property, and a certified copy of any

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antenuptial contract which has been registered by the intending spouses in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) or any other law;

- (j) proof of payment of the prescribed fee; and
- (k) if applicable, the additional documentation required under section 13.

(3) If either intending spouse is a party to a subsisting customary marriage, the matrimonial property regime chosen by the spouses may not be in community of property.

(4) A registrar who receives a document or information under this section must transmit that document or information to the Registrar-General as soon as practicable by following the prescribed procedures for transmission of specific types of documents or information.

(5) A registrar, with the concurrence of the Registrar-General, may exempt a person from the requirement to submit official documents required under paragraph (2)(a) or (c) if in his or her view that submission would create undue hardship on the person.

Requirement of additional documentation for marriage between Namibian citizen and foreign national

13. (1) A foreign national who is not a permanent resident of Namibia and who intends to marry a Namibian citizen or a permanent resident of Namibia under this Act must submit the following additional documentation along with the notification of the intention to marry under section 12 –

- (a) any prescribed documentation, issued within six months of the date of the notification of the marriage, indicating that –
 - (i) there is no outstanding arrest warrant for him or her in his or her country of origin or most recent country of residence other than Namibia; or
 - (ii) there is no Interpol notice in respect of him or her;
- (b) an official certification or other evidence, to the satisfaction of the Registrar-General, from the country of origin of the foreign national or the most recent country of residence of the foreign national other than Namibia, if different from his or her country of origin, attesting to the fact that –
 - (i) the foreign national is not currently married; and
 - (ii) there are no other known legal impediments to his or her marriage,accompanied by a certified translation into English if the information is not in English; and
- (c) a valid visa or permit authorising the foreign national to be legally present in Namibia.

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(2) A registrar who receives a notification in respect of a marriage between a Namibian citizen or a permanent resident in Namibia and a foreign national must within seven days of receipt of the notification forward the application to the Registrar-General for a decision under section 16.

(3) The Registrar-General may request documentation, or verification of documents, as described in subsection (1) from any other country where the foreign national has been present prior to the intended date of marriage if the Registrar-General considers it necessary.

(4) The Registrar-General may, in writing, exempt a foreign national from any or all the requirements under subsection (1) that would, in the opinion of the Registrar-General, create undue hardship for the foreign national or the intended spouse.

(5) For the purpose of this section, a foreign national excludes a foreign national who has been issued a permanent residence permit in terms of section 26 of the Immigration Control Act, 1993 (Act No. 7 of 1993).

Public notice of intended marriage

14. (1) A registrar in the region where a marriage is to be solemnised must, on receipt of a notification under section 12, cause a notice of the intended marriage –

- (a) to be –
 - (i) added to the online notice board of the Ministry as prescribed; and
 - (ii) posted and publicly visible at the prescribed places and for the prescribed period; or
- (b) to be made known to the public by means of any other platform or at any other place that the Minister may prescribe,

unless the requirement for the giving of public notice has been waived in accordance with subsection (6).

(2) A public notice under subsection (1) must be in the prescribed form and must include –

- (a) the full names and surnames of the intending spouses and their dates of birth;
- (b) the date of the intended marriage;
- (c) the intended place of marriage;
- (d) the name of the marriage officer who is expected to solemnise the marriage;
- (e) the name and contact details of the person to whom any objections to the marriage should be directed;

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- (f) the prescribed period for making an objection; and
- (g) any other prescribed information.

(3) The public notice must be displayed or otherwise made known for the prescribed period which may not be less than 21 days from the date of its initial display or announcement, and members of the public may at any time during this period communicate any objections to the marriage as set out in section 15.

(4) The intending spouses may apply, in writing to the registrar of the region in which the marriage is to take place, for a waiver of either or both of the following requirements –

- (a) the minimum period for giving notification of the marriage in terms of section 12(1); or
- (b) the public notification requirements set out in subsection (1) of the intended marriage.

(5) A registrar must, within five days after receipt of an application under subsection (4), forward the application to the Registrar-General with the supporting information as may be relevant and give a recommendation for decision.

(6) The Registrar-General may approve an application under subsection (4) if there is urgency for the solemnisation of the marriage because of –

- (a) a serious illness or impending death of one of the intending spouses;
- (b) the impending death of a close family member, such as the parent, grandparent, child, grandchild, sibling, aunt or uncle of either intending spouse;
- (c) the anticipated birth of a child to the intending spouses; or
- (d) other circumstances that the Minister may prescribe.

Objection to intended marriage

15. (1) A person objecting to an intended marriage must lodge the objection in writing with –

- (a) the registrar or, in the absence of a registrar, any staff member in the region in which the marriage is to take place;
- (b) the Registrar-General; or
- (c) the marriage officer who is expected to solemnise the marriage.

(2) A person referred to in subsection (1), other than the Registrar-General, who receives an objection must as soon as practicable forward the objection to the Registrar-General who may direct a registrar to –

- (a) conduct any investigation that the Registrar-General considers reasonably necessary; and

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- (b) forward the results of the investigation to the Registrar-General, which results the Registrar-General must consider for the purposes of deciding whether to issue a pre-marriage confirmation under section 16.

(3) A person who fails to comply with subsection (2) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Decision on application for pre-marriage confirmation

16. (1) The decision whether to issue a pre-marriage confirmation must be made –

- (a) by the Registrar-General if an objection to the proposed marriage has been received under section 15;
- (b) by the Registrar-General if the proposed marriage is between a foreign national who is not a permanent resident of Namibia and a Namibian citizen, regardless of whether objections are received; and
- (c) in any other case, by a registrar authorised by the Registrar-General in the region where the marriage is to be solemnised,

confirming that as far as can be ascertained from the records held by the Ministry there is compliance with the provisions of this Act.

(2) A pre-marriage confirmation may be approved and issued only if the appropriate official under subsection (1) has given due consideration to any objections received and is satisfied that –

- (a) the requirements of section 12(2) and, if applicable, the provisions of section 13(1) have been complied with, unless in respect of those requirements an exemption has been granted under section 12(5) or 13(4);
- (b) the public notice requirements under section 14(1) have been complied with or waived in terms of section 14(6);
- (c) after verification against relevant Ministry records, there appears to be no legal impediment to the proposed marriage; and
- (d) any prescribed fee has been paid.

(3) If it appears that there are no legal impediments to the intended marriage, the appropriate official under subsection (1) must –

- (a) issue a pre-marriage confirmation in the prescribed form confirming that, as far as can be ascertained from the records held by the Ministry and the information provided by the intending spouses, there appears to be no legal impediments to the intended marriage and that a marriage officer may proceed to solemnise the marriage; and
- (b) retain a copy of the pre-marriage confirmation and information and documents submitted in connection with the application, for record-keeping purposes.

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- (4) The pre-marriage confirmation must include –
- (a) the full names and surnames of the intending spouses and their dates of birth;
 - (b) the identity numbers of the intending spouses, or in the case of a foreign national who is not a permanent resident of Namibia, his or her passport number and expiry date and, if available, his or her identification number;
 - (c) the intended place of marriage, constituency and region where the marriage is to be solemnised;
 - (d) the name of the marriage officer who is expected to solemnise the marriage;
 - (e) a notation indicating that proper consent to marry was obtained and the name of the person who gave the consent if consent is required due to the age of one or both intending spouses;
 - (f) a notation indicating that the documents required by section 13 were submitted if the marriage is between a Namibian citizen and a foreign national who is not a permanent resident of Namibia;
 - (g) the matrimonial property regime chosen by the intending spouses;
 - (h) a marriage notification number; and
 - (i) any other prescribed information.

(5) The appropriate official referred to in subsection (1) may refuse to issue a pre-marriage confirmation only if he or she is satisfied that there is a legal impediment to the proposed marriage.

(6) If the appropriate official referred to in subsection (1) refuses to issue a pre-marriage confirmation, such official must notify the intending spouses as soon as possible of his or her decision to refuse the application and of the reasons for the decision.

(7) If a registrar refuses to issue a pre-marriage confirmation, he or she must transmit to the Registrar-General a copy of the notification to the intending spouses, including the reasons for the decision issued under subsection (6).

(8) The issuance of a pre-marriage confirmation does not indemnify any intending spouse from wrongdoing if any legal impediment is not disclosed or known to the Registrar-General or a registrar at the time of issuance of the confirmation.

Appeals against refusal to issue pre-marriage confirmation

17. (1) Either or both intending spouses may appeal a decision to refuse to issue a pre-marriage confirmation –

- (a) by a registrar, to the Registrar-General; or
- (b) by the Registrar-General, to the Minister,

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in accordance with the prescribed procedures within the prescribed period after he or she has received or has been informed of the decision.

(2) A person who is not satisfied with the decision of the Minister under subsection (1)(b), may appeal the decision to the High Court within the prescribed period after he or she has received or has been informed of the decision.

(3) An appeal under subsection (2) must be lodged and prosecuted in accordance with the rules of the High Court that apply to an appeal from a decision of a magistrate's court in a civil matter.

Collection of pre-marriage confirmation

18. (1) One or both intending spouses must collect the pre-marriage confirmation in person at the office where the intending spouses made their marriage notification

(2) If a pre-marriage confirmation is issued under section 16(2) by an official who is not based at the office where the intending spouses made their application, that official must transmit the pre-marriage confirmation to that office for collection.

Expiry of pre-marriage confirmation

19. (1) A pre-marriage confirmation is valid for 90 days from the date of issue, subject to renewal on application in the prescribed manner, on good cause shown for the requested extension.

(2) A pre-marriage confirmation may be extended under subsection (1) for one additional 90-day period, with no further extensions being permissible.

(3) A marriage officer may not solemnise a marriage after the expiry of the pre-marriage confirmation concerned.

(4) A marriage officer who contravenes or fails to comply with subsection (3) commits an offence and on conviction is liable on to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Cancellation of pre-marriage confirmation

20. (1) If a registrar or the Registrar-General receives information, after the issue of a pre-marriage confirmation but prior to the solemnisation of the marriage, that there is proof of a legal impediment to a marriage, he or she must –

- (a) cancel the pre-marriage confirmation; and
- (b) notify the intending spouses and the relevant marriage officer of his or her decision and the reasons for the decision.

(2) If the information that a registrar or the Registrar-General receives as contemplated in subsection (1) is not initially made in writing, the registrar or the Registrar-General must reduce that information to writing as soon as practicable.

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(3) If a pre-marriage confirmation is cancelled under subsection (1), either or both intending spouses may appeal the decision to the Minister, in accordance with the prescribed procedures within the prescribed period after being informed of the decision.

(4) A person who is not satisfied with the decision of the Minister under this section, may appeal the decision to the High Court within the prescribed period after he or she has received or has been notified of the decision.

(5) An appeal under subsection (4) must be lodged and prosecuted in accordance with the rules of the High Court that apply to an appeal from a decision of a magistrate's court in a civil matter.

PART 3
SOLEMNISATION OF MARRIAGE

Steps before solemnisation

- 21.** (1) Before a marriage is solemnised by a marriage officer –
- (a) the intending spouses must present to the marriage officer a valid pre-marriage confirmation and –
 - (i) in the case of a Namibian citizen or permanent resident of Namibia, his or her original and a copy of his or her Namibian identification document; or
 - (ii) in the case of a foreign national, who is not a permanent resident of Namibia, an original and a copy of a valid passport from his or her country of nationality or other prescribed identification document and a certified translation into English of all biographical information contained in the passport or other identification documentation if the information is not in English; and
 - (b) the marriage officer must examine the identification documents presented in terms of paragraph (a) to ensure that –
 - (i) the information about the intending spouses contained in such identification documents matches the information contained in the pre-marriage confirmation; and
 - (ii) each intending spouse meets the minimum age requirements for marriage without parental consent, or in the case that an intending spouse is between the ages of 18 and 21 years, that the necessary consents are confirmed in the pre-marriage confirmation.
- (2) The marriage officer may not solemnise the marriage or present the intending spouses with a marriage certificate if –
- (a) the information contained in the identification documents presented does not match the information contained in the pre-marriage confirmation; or

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- (b) one or both intending spouses does, or do, not meet the minimum age requirement for marriage without the consent of the parents or the legal guardians, and the required consents are not confirmed or noted in the pre-marriage confirmation.
- (3) Before a marriage is solemnised by a marriage officer, the marriage officer must –
- (a) confirm that the pre-marriage confirmation reflects the matrimonial property regime that the intending spouses have chosen to govern their matrimonial property and record the same matrimonial property regime on the marriage certificate; or
- (b) if the pre-marriage confirmation does not reflect the matrimonial property regime that the intending spouses have chosen to govern their matrimonial property, advise them that they must approach the registrar to amend the pre-marriage confirmation so that it indicates the correct matrimonial property regime before the marriage is solemnised.
- (4) A marriage officer who contravenes or fails to comply with subsection (1)(b), (2) or (3) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Substitution of marriage officer

- 22.** (1) A marriage officer who is requested to solemnise a marriage for which his or her name is not recorded on the pre-marriage confirmation –
- (a) must notify the registrar of the region where the pre-marriage confirmation was issued and request approval to solemnise the marriage; and
- (b) may not solemnise the marriage covered by the pre-marriage confirmation unless approval is received from the registrar.
- (2) A registrar who receives a notification under subsection (1) must –
- (a) if the pre-marriage confirmation has not been cancelled under section 20, immediately approve the request and make a note of the name of the marriage officer in the pre-marriage confirmation records; or
- (b) if the pre-marriage confirmation has been cancelled under section 20, immediately inform the marriage officer that the pre-marriage confirmation has been cancelled and that the marriage may not be solemnised.
- (3) A marriage officer who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Solemnisation of marriage by marriage officer

- 23.** (1) A marriage officer may solemnise a marriage only if –

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- (a) the intending spouses and at least two witnesses are present at the solemnisation; and
- (b) the intending spouses have complied with the requirements of this Act.
- (2) A person may not conclude a valid marriage through any other person acting as his or her representative.
- (3) A marriage may be solemnised by a marriage officer who is a staff member of the Ministry or a magistrate only within ordinary working hours, unless the Executive Director authorises otherwise, subject to any conditions that he or she may impose, including a prescribed fee.
- (4) Subject to section 5(2)(c), a marriage officer may solemnise a marriage at any place, indoors or outdoors, so long as the location can be clearly described to be identifiable by any person.
- (5) A magistrate may solemnise a marriage only at the court where that magistrate is based unless the Executive Director of the Office of the Judiciary has agreed to the solemnisation at another venue in a case of hardship or emergency.
- (6) A staff member of the Ministry may solemnise a marriage only at government office premises unless the Executive Director authorises solemnisation at another venue in a case of hardship or emergency.
- (7) In solemnising a marriage, a marriage officer must follow the prescribed formula.
- (8) A marriage officer, a person or a magistrate who contravenes or fails to comply with subsection (2), (3), (4), (5), (6) or (7) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

No solemnisation if legal impediment is known

24. (1) A marriage officer may not solemnise a marriage if any legal impediment to the marriage is known to the marriage officer, regardless of whether a pre-marriage confirmation has been issued.

(2) A marriage officer who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

No solemnisation in absence of personal consent

25. (1) A marriage officer may not solemnise a marriage if he or she has reason to believe that any of the intending spouses –

- (a) have not consented to the marriage of his or her own free will; or
- (b) are unable to consent to the marriage due to –

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- (i) mental illness or incapacity;
- (ii) mental or intellectual disability; or
- (iii) impairment by drugs or alcohol, advanced age or any other reason.

(2) A marriage officer who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Information on marriage certificate

26. A marriage officer must enter the following information on the marriage certificate –

- (a) the full name and surname of each spouse;
- (b) the birth date of each spouse;
- (c) the place of birth of each spouse, country of birth and nationality;
- (d) the identity number of each spouse or in the case of a foreign national who is not a permanent resident of Namibia, his or her passport number and expiry date, and, if available, his or her identification number;
- (e) the place of marriage;
- (f) the constituency and region where the marriage was solemnised;
- (g) the date on which the marriage was solemnised;
- (h) the matrimonial property regime chosen by the spouses;
- (i) the name, surname and designation number or authorisation number of the marriage officer who solemnised the marriage;
- (j) the number of the applicable pre-marriage confirmation; and
- (k) any other prescribed information.

Issuing of marriage certificate and corresponding marriage record

27. (1) Immediately after solemnising a marriage, the marriage officer must personally –

- (a) complete and sign a marriage record in the prescribed form and ensure that the record is also signed by both spouses and two witnesses to the marriage;
- (b) complete and sign a marriage certificate in the prescribed form in accordance with section 26 and ensure that the marriage certificate is also signed by both spouses and two witnesses to the marriage; and

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(c) issue the original marriage certificate to the spouses.

(2) If a person who is required to sign a marriage certificate, marriage record or other document under this section is unable to do so by reason of illiteracy or disability, that person may provide a fingerprint or other recognisable mark in the place of a signature, or the marriage officer may waive the signature requirement and explain the reasons for the waiver in the marriage record.

(3) A marriage officer must, in the prescribed period and manner, transmit information as prescribed on the marriages solemnised by that marriage officer to the Registrar-General for entry into the marriage register.

(4) A failure by a marriage officer to transmit information as required by subsection (3) without good reason constitutes misconduct for the purposes of section 4(5) or 7.

(5) The Minister may prescribe additional record-keeping requirements for marriage officers.

(6) A marriage officer who contravenes or fails to comply with subsection (1) or (3) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Report where solemnisation of marriage does not take place after issue of pre-marriage confirmation

28. (1) If a marriage for which a pre-marriage confirmation has been issued does not take place for any reason –

(a) the registrar in the region where the marriage was to be solemnised must provide a copy of the pre-marriage confirmation to the marriage officer identified on the certificate; and

(b) the marriage officer identified on the pre-marriage confirmation must endorse the fact that the marriage covered by the pre-marriage confirmation was not solemnised, and the reason for this, on the pre-marriage confirmation and return the pre-marriage confirmation to the registrar in the prescribed manner for prescribed record-keeping.

(2) A marriage officer who contravenes or fails to comply with subsection (1)(b) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

PART 4**VALIDATION AND RECOGNITION OF CERTAIN MARRIAGES****Validation of marriage which is defective due to good faith error**

29. (1) This section applies to a marriage where there is a failure to comply with any of the administrative requirements of this Act in relation to the marriage resulting from a good faith error, omission or oversight on the part of –

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- (a) the staff member who issued the pre-marriage confirmation;
- (b) the marriage officer who solemnised the marriage; or
- (c) either or both intending spouses.

(2) If an error, omission or oversight as described in subsection (1) is discovered, the marriage is as valid and binding as if there had been compliance with this Act if the Registrar-General is satisfied that –

- (a) the marriage was otherwise valid under the provisions of this Act;
- (b) there was no legal impediment to the marriage; and
- (c) the marriage has not already been dissolved or declared invalid by a competent court.

Validation of marriage solemnised by non-marriage officer

30. (1) If a person has solemnised a marriage at a time or in a geographical area in respect of which the person was not a marriage officer, under this Act or any previous law applicable to marriages in Namibia, the Registrar-General may conduct an inquiry as the Registrar-General considers necessary and make a recommendation to the Minister.

(2) If the Minister is satisfied, having regard to the recommendation of the Registrar-General that –

- (a) the person concerned believed in good faith that he or she was a marriage officer during that period or within that area; and
- (b) both persons to the marriage believed in good faith that the person was a marriage officer,

the Minister may direct in writing that the person is for all purposes deemed to have been duly designated as a marriage officer for the purposes of the solemnisation of that marriage.

(3) A marriage solemnised by a person who under this section is deemed to have been duly designated as a marriage officer is as valid and binding as it would have been if –

- (a) the marriage was in every other respect solemnised in accordance with this Act or any prior law; and
- (b) there was no legal impediment to the marriage.

(4) Nothing in this section may be construed as relieving any person deemed to be a marriage officer under subsection (2) from liability to prosecution for any offence under this Act or any prior law.

(5) If a person is retroactively deemed to be a duly designated marriage officer for the purposes of a specific marriage under this section, the registrar must place a notation to this effect in the marriage record and in the corresponding entries in the marriage register

Act No. 14, 2024**MARRIAGE ACT, 2024****Recognition of foreign marriages**

31. (1) A foreign marriage that is valid in the country in which it was contracted is valid in Namibia as if it were contracted under this Act unless at the time of the conclusion of the marriage –

- (a) the marriage lacked any of the elements of a foreign marriage;
 - (b) either party to the marriage was a party to a marriage or a foreign marriage;
 - (c) either party to the marriage lacked the mental capacity to consent to the marriage;
 - (d) the parties to the marriage were related to one another in the degrees prohibited by section 11; or
 - (e) any other legal impediment to marriage under Namibian law applies to the marriage.
- (2) If a person –
- (a) has already been legally married in a marriage in terms of the laws of another country; and
 - (b) during the subsistence of the foreign marriage referred to in paragraph (a), purports to enter a subsequent marriage in Namibia,

the subsequent marriage is not valid under Namibian law.

PART 5**MARRIAGES INVOLVING FOREIGN NATIONALS****Good faith marriages**

32. (1) A marriage between a Namibian citizen and a foreign national who is not a permanent resident of Namibia is not in good faith and not valid for the purposes of domicile, residence or citizenship in Namibia if the Minister concludes, after an investigation as provided for in this Act, that the marriage was entered into primarily for the purpose of the foreign national acquiring Namibian domicile, residence or citizenship, even if the marriage meets all the other requirements of this Act.

(2) The Minister must prescribe criteria which may be used to determine the good faith of a marriage under subsection (1).

(3) The Minister must cause an investigation to be carried out according to the prescribed rules and procedures in respect of a marriage that is suspected of not being in good faith.

(4) The investigation must be concluded within a reasonable period after the solemnisation of the marriage.

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(5) The marriage being investigated will be treated as being in good faith until the contrary is determined in terms of this section.

(6) During the course of an investigation under subsection (3), a person not may be compelled to disclose information about the sexual relationship, or the lack of a sexual relationship, between the spouses.

(7) If an investigation conducted in terms of this section indicates that a marriage officer has committed misconduct in terms of this Act, the Minister must take appropriate action in terms of section 4(5) or 7.

(8) If an investigation conducted in terms of this section indicates that an offence has been committed in terms of this Act, the Minister must refer the matter to the Inspector-General of the Namibian police for investigations.

Requirements for marriages in Namibia between two foreign nationals

33. (1) If two foreign nationals who are not permanent residents of Namibia intend to marry each other in Namibia, they must comply with the requirements of this Act as modified by this section.

(2) The foreign nationals must notify the Registrar-General of their intention to marry in the prescribed form and manner and request for pre-marriage confirmation in terms of section 12, but may make the notification in person, by post, by courier or via electronic means, if the originals of any documents submitted electronically are presented to a registrar or the Registrar-General for verification prior to solemnisation.

(3) Each of the foreign nationals must comply with the requirements for a foreign national in section 13 other than subsection (1)(a) of that section.

(4) The public notice requirements under section 14 and the provisions pertaining to public notice in section 14(2)(b) do not apply.

(5) The foreign nationals must appear together in person to collect the pre-marriage confirmation under section 16.

(6) The marriage will be registered in the marriage register in Namibia in the same manner as any other marriage concluded under this Act.

PART 6**OFFENCES AND PENALTIES****Unauthorised payments, gifts or rewards**

34. A marriage officer, a registrar, the Registrar-General, the Executive Director or Minister or any staff member who demands or receives any fee, payment or reward for anything done in his or her official capacity under this Act, other than the fees which are prescribed by this Act, commits an offence and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

Bigamous marriages

35. A person who –

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- (a) enters into a marriage under this Act, while still being a party to a subsisting marriage concluded under this Act, any other law of Namibia or a foreign marriage; or
- (b) is not married and goes through the ceremony of marriage with a person whom he or she knows to be a party to a subsisting marriage under this Act, any other law of Namibia or a foreign marriage,

commits an offence and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

False declarations

36. A person who knowingly makes a false representation or false statement for the purposes of this Act commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

False pretences in respect of consent to marriage

37. A person who endeavours to prevent a marriage by providing false information that –

- (a) there is a legal impediment to the marriage;
- (b) consent to the marriage is required; or
- (c) any required consent to the marriage has not been given,

commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

Unauthorised solemnisation of marriages

38. (1) A marriage officer who solemnises a marriage that –

- (a) he or she is not authorised under this Act to solemnise; or
- (b) to his or her knowledge is prohibited under this Act,

commits an offence and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

(2) Subsection (1) does not prohibit any person from officiating at a cultural or religious blessing of a marriage, but a cultural or religious blessing does not produce any legal consequences between the persons in question, whether conducted before or after a marriage solemnised under this Act.

Act No. 14, 2024**MARRIAGE ACT, 2024****Impersonation**

- 39.** A person who –
- (a) impersonates any other person in a marriage; or
 - (b) marries under a false name or description with intent to deceive,

commits an offence and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

False representation

40. If a person goes through a ceremony that he or she represents to be a ceremony of marriage knowing that the marriage is void on any ground, the person commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

PART 7
GENERAL PROVISIONS

Indemnity

41. A person who is authorised to perform any function or exercise any power under this Act is not personally liable for any damage or loss arising out of any act or omission by him or her during the performance of his or her duties under this Act, unless such loss or damage is due to his or her intentional misconduct, dishonesty or gross negligence.

Notice of legal proceedings

42. (1) A person aggrieved by the exercise of any power or performance of any function under this Act must give written notice to the defendant or respondent at least 30 days before the institution of legal proceedings.

(2) The Minister may at any time waive compliance with the provisions of this section on good cause shown.

Delegation

43. (1) The Minister may delegate any function or power assigned to him or her under this Act, except the power to determine appeals, to make regulations or to issue notices in the *Gazette*, to the Executive Director or Registrar-General.

(2) The Executive Director, Registrar-General or a registrar may delegate any function or power conferred on him or her under this Act to a staff member.

- (3) A delegation of a function or power under subsection (1) or (2) –

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- (a) must be made in writing;
- (b) may be withdrawn or varied in writing by the Minister, the Executive Director, the Registrar-General or a registrar at any time; and
- (c) does not preclude the person delegating from exercising any power or performing any function so delegated.
- (4) A registrar may not delegate his or her functions or powers in terms of subsection (2) without the concurrence of the Registrar-General.

Regulations

44. The Minister may make regulations relating to –
- (a) anything that is permitted or required to be prescribed under this Act;
 - (b) limitations or conditions which may be placed on the authority of specific marriage officers;
 - (c) the form and content of any document or register required for the purposes of this Act;
 - (d) the conditions under which registers and other documents may be inspected by members of the public;
 - (e) the fees payable in respect of anything required or permitted to be done, or any document required to be executed, under this Act; or
 - (f) any other matter not inconsistent with this Act aimed at achieving the objectives of the Act.

Repeal and amendment of laws

45. The laws set out in the Schedule are amended or repealed to the extent specified in that Schedule.

Transitional provision

46. Despite the repeal of the laws by section 45 any marriage that, prior to the coming into force of this Act, was valid under the repealed law is not affected by the repeal of that law, and anything done under any provision of that law is deemed to have been done under the corresponding provision, if any, of this Act.

Short title and commencement

47. (1) This Act is called the Marriage Act, 2024 and comes into operation on a date to be determined by the Minister by notice in the *Gazette*.
- (2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.
- (3) Any reference in this Act to the commencement of this Act must be construed as a reference to the date determined under subsection (1) or (2).

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SCHEDULE

(Section 45)

Repeal and amendment of laws and related matters

No. and Year	Title	Extent of repeal or amendment
Act No. 25 of 1961	The Marriage Act	The whole
Act No. 11 of 1964	Marriage Amendment Act	The whole
Act No. 19 of 1968	Marriage Amendment Act	The whole
Act No. 51 of 1970	Marriage Amendment Act	The whole
Act No. 26 of 1972	Marriage Amendment Act	The whole
Act No. 12 of 1973	Marriage Amendment Act	The whole
AG Proc. 8 of 1977	Marriage Amendment A.G. Proclamation	The whole
Act No. 5 of 1987	Marriages, Births and Deaths Amendment Act	The whole
Act No. 1 of 1996	Married Persons Equality Act	Sections 23, 24 and 25 are repealed
Act No. 3 of 2015	Child Care and Protection Act	<p>1. Section (10) is amended by the substitution for subsection (10) of the following subsection:</p> <p>“(10) Despite subsection (1), a person who has [is under the age of 21 years] attained the age of 18 but has not yet attained the age of 21 years requires the consent of his or her parents [or], guardians or the children’s commissioner to enter into a marriage, unless that person has been previously married or emancipated by an order of court.”.</p> <p>2. Section 226 is amended –</p> <p>(a) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) A person may not give a child out in marriage or engagement if such child –</p> <p>(a) is below the age of 18; or</p> <p>(b) is aged 18 years or above, but does not consent to the marriage or engagement [does not consent to the marriage or engagement or is below the minimum age for marriage contemplated in</p>

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		<p>section 24 of the Marriage Act, 1961 (Act No. 25 of 1961)].”.</p> <p>(b) by the substitution for the first subsection (3) of the following subsection:</p> <p>“(3) A -</p> <p>[(a) child requires the consent of the minister responsible for home affairs in order to marry; and]</p> <p>(b) person who has attained the age of 18 but is below the age of 21 years [also] requires the consent of his or her parent, parents or guardian <u>or guardians</u> or the <u>children’s commissioner</u> in terms of section 10(10) of this Act in order to marry.”.</p>
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