

MARRIAGES BILL, 2017

MEMORANDUM

This Marriages Bill, 2017, repeals and replaces the current Customary Marriages Act [*Chapter 5:07*] and the Marriage Act [*Chapter 5:11*]. There will be one Act of Parliament governing marriages in Zimbabwe and the new Act will also update the law in line with the Constitution. The following are the main Constitutional precepts which the Marriages Bill takes into account:-

- gender equality (section 3 (1)(g) of the Constitution);
- recognition of the rights of women, youths and children (section 3 (2)(i)(iii) of the Constitution);
- the recognition of the rights of cultural groups (section 3 (2)(i)(i));
- the preservation of cultural values and practices which enhance the dignity, well-being and equality of people (section 16 (1));
- section 26 of the Constitution with respect to the requirement of free and full consent to marriage by the intending spouses; the ban on the pledging of children in marriage; the equality of rights and obligations of spouses during marriage and at dissolution; provision for the protection of any children of a marriage upon the dissolution of marriage whether by divorce or on death;
- the paramountcy of the best interests of the child (section 19 (1) and 81 (2) of the Constitution), a child being a person under the age of 18 years (section 81 (1) of the Constitution);
- the right of any person who has attained the age of eighteen to found a family, not to be compelled to enter into marriage against their will and the prohibition of same sex marriages (section 78 of the Constitution);
- protection of children from sexual exploitation (section 81 (1)(e));
- the supremacy of the Constitution which, in section 2 (1), invalidates any law, practice, custom or conduct which is inconsistent with the Constitution.

In brief therefore, the Bill re-enacts a marriages law that complies with these various provisions of the Constitution. There will be one Act of Parliament to deal with the creation of marriages.

In more detail, the Bill provides as follows:

Part I of the Bill deals with preliminary matters.

Clause 1 sets out the short title of the Bill and provides for the coming into operation of the Bill on a date to be notified by the President in the *Gazette*.

Clause 2 defines terms used in the Bill and new and significant among them are “betrothal”, “civil marriage”, “civil partnership” which is more fully explained in clause 40 of the Bill, and “marriage”. The term “marriage” which encapsulates both “civil marriages” and “customary law marriages” refers to marriages formally solemnized or registered in terms of this Bill. This is to distinguish them from any other union which is not so solemnized or registered. The definition of “marriage officer” has been widened to include Chiefs, in their areas of jurisdiction, with respect to customary law marriages. The rest of the terms are fairly straight-forward.

Part II of the Bill deals with general provisions governing marriage.

Clause 3 provides that the minimum age of marriage is 18 years. In order to ensure the protection of minors, the minimum age requirement has been extended to unregistered customary law marriages and to civil partnerships. This guards against attempts to side-step the law by avoiding formal marriages and still have children being forced into relationships which are, to all intents and purposes, marriages.

Clause 3 also explicitly outlaws the marrying, pledging or betrothal of children by any person and doing so is an offence which is aggravated in circumstances where the contravention is by a parent or a person in the role of a parent.

Clause 4 requires that the free and full consent of parties to a proposed marriage be given before the marriage is solemnized.

Clause 5 states that a civil marriage is contracted in terms of the general law of Zimbabwe and is monogamous. No other marriage can be contracted by a person during the subsistence of a monogamous marriage. A customary law marriage is potentially polygamous. A person cannot be married under both the general law and customary law at the same time. Parties to a customary law marriage can convert their marriage to a civil law marriage if there are no other existing spouses in the marriage. All marriages under the Act have equal status.

Clause 6 provides that spouses have equal rights and obligations during marriage and at its dissolution. This especially addresses wives who were previously regarded as having no legal capacity and were treated as perpetual minors. Equality at dissolution of marriage must be understood within the context of the proprietary regime governing the marriage concerned.

Clause 7 makes provision for the prohibited degrees of relationship between parties proposing to get married. The section cross-refers to section 75 (2) of the Criminal Law Code where the following persons are prohibited from marrying:

- (a) a parent and his or her natural child, whether born in or out of wedlock, or adopted child, whether the child is under the age of **18 years** or not;
- (b) a step-parent and his or her step-child, whether the step-child's parent and step-parent are married under the Marriage Act [*Chapter 5:11*] or the Customary Marriages Act [*Chapter 5:07*], or are parties to an unregistered customary law marriage, and whether or not the child was over the age of 18 years at the time of the marriage;
- (c) a brother and sister, whether of whole or half blood;
- (d) an uncle and his niece;
- (e) a grand-uncle and his grand-niece;
- (f) an aunt and her nephew;
- (g) a grand-aunt and her grand-nephew;
- (h) a grandparent and his or her grandchild;
- (i) subject to subsection (3), any person and his or her first or second cousin;
- (j) any person and an ascendant or descendant of his or her spouse or former spouse, whether the person and his or her spouse or former spouse are or were married under the present Marriage Act [*Chapter 5:11*] or Customary Marriages Act [*Chapter 5:07*], or are or were parties to an unregistered customary law marriage;
- (k) any person and his or her ascendant or descendant in any degree; or

(l) any person and a descendant of a brother or sister, whether of whole or half-blood.

First and second cousins who are not members of a community governed by customary law whose cultural or religious customs or traditions of the community to which they belong do not prohibit marriage between first or second cousins are exempt from the prohibition.

Similarly, first and second cousins who are members of a community governed by customary law, whose cultural or religious customs or traditions of the particular community to which they belong do not prohibit marriage between first and second cousins are exempt from the prohibition.

The Criminal Law Code details the considerations to be taken into account for the exemption with respect to first and second cousins to apply.

It is a criminal offence to contravene these prohibitions.

Part III of the Bill provides for marriage officers.

Under **clause 8**, all magistrates are marriage officers in the districts in which they hold office. Under **clause 9**, Chiefs, as well as magistrates, are marriage officers in customary law marriages in the areas in which they hold office.

Clause 10 provides for the designation of ministers of religion as marriage officers authorised to solemnize marriages in accordance with the rites of any religion, faith or organisation. Ministers of religion are not authorised to solemnize customary law marriages.

Under **clause 11**, if a person has acted as a marriage officer in the *bona fide* belief that he or she is a marriage officer when in fact he was not, the Minister may direct in writing that the person is deemed to have been a marriage officer during the period he or she so acted. The marriages so solemnized shall be valid if there was no lawful impediment to the marriage and if the marriage was solemnized in accordance with the law. The person will however be liable to prosecution for acting as a marriage officer.

Clause 12 allows a person who is designated as a marriage officer to remain a marriage officer notwithstanding the change in name of the religious denomination or organisation or amalgamation of denominations or organisations. The Minister must be immediately informed of any change or amalgamation.

Clause 13 provides for the revocation of designations for misconduct or any other good reason following consultations with the authorities of the denomination or organisation concerned. A marriage officer will cease to be a marriage officer on severing connection with a denomination or organisation in respect of which he was designated.

Clause 14 forbids the solemnization of marriage by any person other than a marriage officer. A marriage will not be invalid due to the fact that the person who solemnized it had no authority to do so if the parties believed the person had authority to do so and the parties showed an intention to be married.

Part IV of the Bill provides for the procedures to be followed in the solemnization of marriages.

Clause 15 governs the solemnization of customary law marriages. Customary law marriages include the taking as wife the widow of a deceased relative. The marriage officer, being a magistrate or a Chief, is required to put questions to the parties or the witnesses present with regard to the identity and conjugal status of the parties or the existence of any impediments. It is an offence to refuse to answer any question by the marriage officer. Impersonation of parties to a marriage is also an offence. If the marriage officer is satisfied that there is no impediment to the marriage and that the parties have freely and fully consented, he shall solemnize the marriage.

Clause 16 provides that a customary law marriage which has not been solemnized in terms of this Act must be registered by the parties to such marriage within 3 months of the date the union was entered into by furnishing the Registrar of Marriages with the information which will be required for the registration. The Registrar will register the marriage and issue the parties with a certificate of registration of a customary law marriage. Failure to register the marriage does not however affect the validity of the marriage at customary law with respect to the status, guardianship, custody and other rights of the children of the parties.

Clauses 17 to 26 provide for the procedures to be followed before the solemnization of civil law marriage. These are the same as in the existing law. Under **clause 17**, a marriage officer for a civil marriage cannot solemnize a marriage unless either banns or a notice of intention to marry has been published or a marriage licence has been issued in respect of the proposed marriage. A certificate of no impediment to a marriage will be required from an appropriate authority of a country in which a person wishing to marry in Zimbabwe is ordinarily resident if that country does not require the publishing of banns or of a notice of intention to marry.

Clause 18 requires a person who wishes to have banns published to apply to a minister of religion for the publication of the banns if the person has resided in the area in which the minister holds office for at least 14 days before the date of the application. The application must state the full names, age residential address and status of the parties and be signed and dated by them. A minister of religion is not compelled to accept and publish the banns.

Clause 19 sets out the manner of publication of banns. Banns are published by the minister of religion or any person authorised by the relevant denomination or organization concerned. Publication is either orally during a public service in the face of the congregation before whom he or she officiates on three Sundays preceding the solemnization of the marriage. Alternatively, the banns may be posted for a period covering 3 consecutive Sundays preceding the solemnization of the marriage in a conspicuous place in the immediate vicinity of the ordinary place of worship of the congregation. If the main divine service is held on any other day than Sunday, the banns may be called out on such other day.

Under **clause 20**, a minister of religion may, at their request, issue to the parties a certificate of to the effect that banns have been published and the clause sets out the details to be stated in the certificate.

Under **clause 21**, banns of marriage published outside Zimbabwe shall be regarded as having been published in Zimbabwe and a marriage officer may not solemnize any marriage unless proof is produced to him or her that the publication was in accordance with law of the country concerned.

Clause 22 provides for the publication of a notice of intention to marry. A party who desires to have a notice of intention to marry to be published must apply to a magistrate stating the full names, age, status and residential address of the parties and be signed and dated by them. The magistrate shall publish the notice by posting it in a conspicuous place in the immediate vicinity of his or her office for a continuous period of 15 days if he is satisfied that the person has resided in the area for at least 14 days immediately prior to the publication. If only one of the parties has resided in the area, only that person shall be deemed to have published the notice.

Under **clause 23**, parties may apply to the magistrate who published the notice of intention to marry for a certificate to the effect that such notice was published and the clause sets out the details to be stated in the certificate.

Clause 24 provides for the issue of a marriage licence to parties who wish to marry without the publication of banns or notice of intention to marry. The parties may personally apply to a magistrate for the licence and furnish him or her with their full names, age, status and residential addresses. The magistrate may ask them questions necessary to determine whether or not any lawful impediment to

the marriage exists and may institute any other inquiries necessary to establish that no impediment exists. The magistrate will issue the licence if satisfied that no impediment exists.

Clause 25 provides that banns, a notice of intention to marry or a marriage licence will lapse if the marriage is not solemnized within three months of the date of their issue.

Clause 26 provides for the overlooking of any failure in the strict compliance with the provisions relating to the publication of any banns, notice of intention to marry or the issue of a marriage licence by reason of error, omission or oversight if there are no other lawful impediments to the marriage.

Clause 27 provides for objections to any proposed marriage. A person wishing to object to any marriage can lodge the objection in writing with the marriage officer who published banns or orally in the case of banns called out orally; or with the marriage officer who issued the notice of intention to marry or the marriage licence; or with the marriage officer who is to solemnize the marriage. The marriage officer concerned must inquire into the ground of the objection and if satisfied that there is no lawful impediment, take no further action but if not so satisfied, he or she shall refuse to issue any certificate or to solemnize the marriage or he or she may revoke any marriage licence which may have been issued.

Clause 28 requires that a marriage officer be furnished with the appropriate documents as proof of age and identity of the parties to a proposed marriage before solemnizing the marriage.

Clause 29 provides that a marriage may be solemnized at any time in a church, building used for religious services, public office or private residence or any other place approved by a marriage officer, in the presence of the parties themselves and at least 2 witnesses of or above the age of 18 years.

Clause 30 provides for the marriage formula which, if the marriage officer is a minister of religion, must be in accordance with the denomination concerned, and in the case of any other marriage officer, the section specifies the formula to be used.

Clause 31 provides that a minister of religion is not compelled to solemnize a marriage which does not conform to the rites of his or her denomination or organization and a magistrate or Chief is not compelled to solemnize a marriage outside ordinary hours of work observed by the State.

Clause 32 provides that only ministers of religion are authorized to demand or receive a gift or reward for solemnizing a marriage. A minister of religion may receive remuneration in accordance with the rules of his or her denomination or organization.

Clause 33 permits a minister of religion to bless any marriage contracted within or outside Zimbabwe in accordance with the rites of his or her church or organization or to issue any documents in connection with the blessing. The minister of religion is however required to inform the parties that the blessing is not recognised as a marriage under the law.

Part V provides for the registration of marriages.

Clause 34 provides for the Civil Service post of Registrar of Marriages.

Clause 35 details the procedures to be followed by a marriage officer in making entries into the marriage register book and duplicate original registers and the particulars to be entered. The form of the registers is prescribed in terms of the Act. The entries must be signed by the marriage officer, the parties and attested by at least two witnesses. One copy must be handed to the parties, one must be sent to the Registrar of Marriages within 30 days of the date of the marriage together with any other document required to be delivered to the Registrar. A marriage officer is required, upon payment of a prescribed fee, if any, to permit searches to be made in the marriage register book in his or her custody.

Under **clause 36**, the Registrar is required to file in his or her office all the documents sent to him by a marriage officer and must immediately register in the Marriage Registration Book such particulars as may be prescribed of every duplicate original register filed by him or her. Upon payment of the prescribed fee, the Registrar is required to allow any application to search the Marriage Registration Book or, if satisfied that a copy is not required for an unlawful or improper purpose, to issue certified copies of a duplicate original register filed by him.

Clause 37 authorises the Registrar to correct clerical errors or errors of fact in any duplicate original register filed in his or her office or in the possession of the parties if appropriate evidence as to the errors is produced to him or her. The Registrar will also direct a marriage officer to making corresponding corrections in the marriage register in his or her custody.

Part VI of the Bill provides for offences and other miscellaneous matters.

Clause 38 provides for an offence and penalty for contravention of clause 35 by a marriage officer. Imprisonment of up to 6 months may be imposed on the marriage officer. **Clause 39** also provides for an offence and penalty for the solemnizing of a marriage by a marriage officer in contravention of the law. Imprisonment of up to 5 years may be imposed on the marriage officer.

Clause 40 provides for relationships which, to make a clear distinction between them and proper marriages, have been termed “civil partnerships”. Civil partnerships are the equivalent of what would be referred to under the general law as “common law marriages”. Civil partnerships are not recognized as marriages as defined under this Bill but for the purpose of realizing justice between the parties to the partnership in terms of the Matrimonial Causes Act [*Chapter 5:13*] upon the dissolution of the relationship.

The parties to a civil partnership must be over 18 years of age, not within the prohibited degrees of relationship and, having regard to all the circumstances of the relationship, have lived together as a couple on a genuine domestic basis before their rights and obligations on the dissolution of the relationship can be determined in accordance with the Matrimonial Causes Act. **Subclause (2)** sets out the circumstances that may be taken into account in determining whether or not a civil partnership existed. Under **subclause (3)**, no particular factor in relation to any circumstance may be regarded as necessary in the determination and the court making a determination may attach such weight to any factor as may be appropriate. Under **subclause (4)**, because a civil partnership is not a marriage, it may exist notwithstanding that one or both parties are legally married to someone else or are in another civil partnership.

Clause 41 provides for the issue by the Registrar of Marriages of a certificate of no impediment to marriage to a Zimbabwean seeking to be married outside Zimbabwe. An application for the certificate must be in the prescribed form and the Registrar may issue the certificate if satisfied, following any searches or inquiries he or she may undertake, that there is no impediment to the marriage and shall ensure that the certificate discloses any specific information that may be required in the country concerned.

Clause 42 provides for circumstances in which a marriage is void or voidable. Void marriages include marriages of children contracted after 20 January 2016, a civil marriage where either party was lawfully married to someone else, marriages of persons within prohibited degrees of relationship, marriages in which consent was not real consent in the circumstances specified in the clause. Voidable marriages include marriages of children contracted before 20 January 2016. The annulment of a child marriage will not prejudice any personal or real rights which the person who was a child had become entitled to by virtue of the void or voidable marriage and the rights of any child of such marriage.

Clause 43 provides for the recognition of foreign marriages if the essential requirements of a marriage under Zimbabwean law are met.

Clause 44 provides for the dissolution of marriages in terms of the Matrimonial Causes Act [*Chapter 5:13*].

Clause 45 provides for the making of regulations governing any matter relating to marriages.

Clause 46 provides for the repeal of the Customary Law Marriages Act [*Chapter 5:07*] and the Marriage Act [*Chapter 5:11*] and also provides for savings and some transitional matters. Of significance is the period of 12 months granted to parties who contracted unregistered customary law marriages before the date of commencement of this Act to register such marriages as provided for under this Act.

Clauses 47 to 53 provide for consequential amendments to various Acts to bring them into line with the Constitutional definition of child. All the amendments are self-explanatory. Noteworthy is clause 47 which amends the Child Abduction Act [*Chapter 5:05*] by repealing and replacing the definition of “child”. The definition of “child” under that Act is going to be different from the definition of “child” under the Convention on the Civil Aspects of International Child Abduction which has the force of law in Zimbabwe. This means that, by virtue of this change in the definition of child, our law will afford greater protection than the Convention which restricts a child to a person under the age of 16 years.

MARRIAGES BILL, 2017

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

GENERAL PROVISIONS AS TO MARRIAGES

3. Minimum age of marriage.
4. Consent to marriage.
5. Nature of marriages.
6. Legal status of spouses.
7. Legality of marriages between persons with certain degrees of affinity or consanguinity.

PART III

MARRIAGE OFFICERS

8. Magistrate to be marriage officer for district.
9. Chief to be marriage officer in customary law marriages for district.
10. Designation of ministers of religion and other persons as marriage officers.
11. Certain persons may in certain circumstances be deemed to have been marriage officers.
12. Change of name of religious denomination or organization and amalgamation of religious denominations or organizations.
13. Revocation of designation as marriage officer.
14. Unauthorized solemnization of marriage ceremonies forbidden.

PART IV

SOLEMNIZATION OR REGISTRATION OF MARRIAGES

15. Solemnization of customary law marriages.
16. Unregistered customary law marriages.

17. Publication of banns or notice of intention to marry or issue of marriage licence before marriage.
18. Application for publication and acceptance of banns.
19. How publication of banns of marriage to be made.
20. Certificate of publication of banns.
21. Publication outside Zimbabwe of banns or notice of intention to marry.
22. Notice of intention to marry.
23. Certificate of publication of notice of intention to marry.
24. Marriage licence.
25. Period of validity of banns, notice of intention to marry and marriage licence.
26. Informalities in publication of banns or notice of intention to marry or in issue of marriage licence.
27. Objections to marriage.
28. Proof of age and identity of parties to proposed marriage.
29. Time and place for, and presence of parties and witnesses at, solemnization of marriage.
30. Marriage formula.
31. Certain marriage officers may refuse to solemnize certain marriages.
32. Payments to marriage officers.
33. Blessing of a marriage.

PART V

REGISTRATION OF MARRIAGES

34. Registrar of Marriages.
35. Register of marriages.
36. Registration of marriages by Registrar.
37. Correction of errors.

PART VII

OFFENCES AND MISCELLANEOUS PROVISIONS

38. Penalty for failure to comply with section 35.
39. Penalties for solemnizing marriage contrary to this Act and for false representation or statement.
40. Civil partnerships.
41. Certificate of no impediment to marriage.
42. Void and voidable marriages.
43. Recognition of marriages of foreigners.
44. Dissolution of marriages.

45. Regulations.
46. Repeals, savings and transitional provisions.
47. Amendment of section 2 of Cap. 5:05.
48. Amendment of sections 2 and 47 of Cap. 5:06.
49. Amendment of section 4 of Cap. 5:08.
50. Amendment of section 11 of Cap. 5:09.
51. Amendment of section 8 of Cap. 5:13.
52. Amendment of section 15 of Cap. 8:07
53. Amendment of section 75 of Cap. 9:23.

First draft: February, 2017

BILL

To consolidate the laws relating to marriages; to provide for the recognition and registration of customary law unions; to provide for the recognition of civil partnerships; to amend the Child Abduction Act [*Chapter 5:05*], the Children’s Act [*Chapter 5:06*], the Guardianship of Minors Act [*Chapter 5:08*], the Maintenance Act [*Chapter 5:09*], the Matrimonial Causes Act [*Chapter 5:13*], the General Law Amendment Act [*Chapter 8:07*], and the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]; to repeal the Customary Marriages Act [*Chapter 5:07*] and the Marriage Act [*Chapter 5:11*]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament and the President of Zimbabwe.

PART I

PRELIMINARY

1 Short title

(1) This Act may be cited as the Marriages Act, 2017.

(2) This Act shall come into operation on a date to be fixed by the President by notice in the *Gazette*.

2 Interpretation

In this Act—

“betrothal” means the promising in marriage or the engagement for the purpose of marriage and includes any coerced act intended to lead to or result in marriage;

“civil marriage” means a marriage contracted under the general law;

“Chief” means a Chief referred to in Chapter 15 of the Constitution;

- “child” means a person under the age of eighteen years;
- “civil partnership” means the relationship referred to in section *forty*;
- “Criminal Law Code” means the Criminal Law (Codification and Reform) Act [*Chapter 9:23*];
- “customary law” means the customary law of any section or community of Zimbabwe’s people;
- “customary law marriage” means a marriage solemnised in accordance with customary law;
- “general law” means the law of Zimbabwe other than customary law;
- “magistrate” means any magistrate appointed in terms of the Magistrates Court Act [*Chapter 7:10*];
- “marriage” means a marriage solemnised, registered or recognised as such in terms of this Act, being a union between persons of the opposite sex;
- “marriage consideration” means the consideration, by whatever name known at customary law, given or to be given by any person in respect of a marriage in terms of customary law, whether such marriage is contracted according to customary law or the general law;
- “marriage licence” means a licence to marry issued in terms of section *twenty-four*;
- “marriage officer” in relation to—
- (a) a customary law marriage, means a magistrate or a Chief;
 - (b) a civil marriage, means a magistrate or a minister of religion;
- “Minister” means the Minister responsible for justice or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- “minister of religion” means a person designated and registered as a marriage officer in terms of section *ten*;
- “prior law” means any law in force immediately before the date of commencement of this Act under which marriages were solemnised;
- “Registrar” means the Registrar of Marriages referred to in section *thirty-four*.

PART II

GENERAL PROVISIONS AS TO MARRIAGES

3 Minimum age of marriage

(1) No person under the age of eighteen years may contract a marriage or enter into an unregistered customary law marriage or a civil partnership.

(2) For the avoidance of any doubt, child marriages are prohibited and under no circumstance shall any person contract, solemnise, promote, permit, allow or coerce or aid or abet the contracting, solemnizing, promotion, permitting, allowing or coercion of the marriage, unregistered customary law marriage, civil partnership, pledging, promise in marriage or betrothal of a child.

(3) Any person, other than the child concerned, who contravenes subsection (2), shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(4) It shall be an aggravating factor in an offence referred to in subsection (3) that the contravention was by a parent or a person *in loco parentis* to the child concerned.

4 Consent to marriage

A marriage shall not be solemnized or registered in terms of this Act unless each party to the marriage has given his or her free and full consent to the marriage.

5 Nature of marriages

(1) A civil marriage is monogamous, that is to say, it is the lawful union of two persons to the exclusion of all others and no person may contract any other marriage during the subsistence of a marriage under the general law.

(2) A customary law marriage may, subject to the customary law of the people concerned, be potentially polygamous.

(3) No person may be married under the general law and customary law at the same time.

(4) Parties to a registered customary law marriage in which the husband has no other existing spouse in polygamy may convert their marriage to a civil marriage and the appropriate marriage officer shall, upon being satisfied that there is no impediment to the conversion, solemnize the marriage in accordance with the general law and the civil marriage shall supersede the previous customary law marriage in the marriage register.

(5) All marriages registered in terms of this Act are equal.

6 Legal status of spouses

Parties to any marriage have equal rights and obligations during the subsistence, and at dissolution, of the marriage.

7 Legality of marriages between persons within certain degrees of affinity or consanguinity

(1) With effect from the date of commencement of the Criminal Law Code—

- (a) no persons who are related to each other in any degree of relationship specified in subsection (2) of section 75 of the Criminal Law Code shall be capable of contracting a valid marriage, unless, in the case of persons who are related to each other as first or second cousins, they satisfy the marriage officer that they belong to a community referred to in subsection (3) of section 75 of the Criminal Law Code;
- (b) persons who are related to each other by affinity shall be capable of contracting a valid marriage if the affinity relationship between them is not one described in paragraph (b) or (j) of subsection (2) of section 75 of the Criminal Law Code.

(2) If, on or after the date of commencement of the Criminal Law Code, a marriage is contracted or purports to be contracted between parties who are related to each other as first or second cousins without belonging to a community referred to in subsection (3) of section 75 of the Criminal Law Code, and at the time of the solemnisation of the marriage—

- (a) the parties knew or realised that there was a real risk or possibility that they were related to each other as first or second cousins, such marriage shall be void;
- (b) one of the parties knew or realised that there was a real risk or possibility that they were related to each other as first or second cousins, such marriage shall be voidable at the instance of the party who was not so aware within twelve months from the time when he or she became so aware;

(c) the parties did not know or realise that there was a real risk or possibility that they were related to each other as first or second cousins, such marriage shall be valid.

(3) For the avoidance of doubt it is declared that a marriage between persons who are related to each other as first or second cousins shall be valid if such marriage was contracted before the date of commencement of the Criminal Law Code.

PART III

MARRIAGE OFFICERS

8 Magistrate to be marriage officer for district

Every magistrate shall, by virtue of his or her office and so long as he or she holds such office, be a marriage officer for the district in which he or she holds office.

9 Chief to be marriage officer in customary law marriages for district

Every Chief shall, by virtue of his or her office and so long as he or she holds such office, be a marriage officer in customary law marriages for the district in which he or she holds office.

10 Designation of ministers of religion and other persons as marriage officers

(1) The Minister may, at the request of the authority governing any religious denomination or organization, designate any person holding a responsible position in any such religious denomination or organization to be a marriage officer for the purpose of solemnizing marriages according to Christian, Jewish, Islamic or Hindu rites or the rites of any religion, and such person shall, for the purposes of this Act, be known as a minister of religion.

(2) A minister of religion shall not solemnize a customary law marriage.

(3) The Registrar shall keep a register in the prescribed manner of all persons designated by the Minister in terms of subsection (1) as marriage officers.

11 Certain persons may in certain circumstances be deemed to have been marriage officers

(1) Whenever any person has acted as a marriage officer during any period in respect of which he was not a marriage officer under this Act or a prior law, and the Minister is satisfied that such person did so in the *bona fide* belief that he or she was a marriage officer during that period, he or she may direct in writing that such person shall for all purposes be deemed to have been a marriage officer during such period under this Act or a prior law, as the case may be.

(2) Any marriage solemnized during such period by any person who is in terms of a direction under subsection (1) deemed to have been a marriage officer in respect thereof, shall, if such marriage was in every other respect solemnized in accordance with this Act or a prior law, as the case may be, and there was no lawful impediment to the marriage, be valid and binding as it would have been had such person had a marriage officer in respect of such period.

12 Change of name of religious denomination or organization and amalgamation of religious denominations or organizations

(1) A change in the name of a religious denomination or organization or the amalgamation of a religious denomination or organization with any other religious denomination or organization shall not affect the designation as a marriage officer of any person who was so designated 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 changes the name by which it was known or amalgamates with any other religious denomination or organization in such circumstances as are contemplated in subsection (1), it shall immediately inform the Minister thereof.

13 Revocation of designation as marriage officer

(1) The Minister may, on the ground of misconduct or for any other good cause, and where possible after consultation with the authority governing the religious denomination or organization concerned, revoke in writing the designation of any person as a marriage officer.

(2) Where a minister of religion severs his or her connection with any religious denomination or organization in respect of which he or she was appointed a marriage officer, he or she shall forthwith cease to be a marriage officer.

14 Unauthorized solemnization of marriage ceremonies forbidden

(1) A marriage is solemnized by a marriage officer only.

(2) A marriage shall not be invalid by reason that the person solemnizing it was not authorised by this Act to do so, if either party to the marriage, at the time the marriage was solemnised, believed that that person was lawfully authorised to solemnise it, and in such case, the form and ceremony of the marriage shall be deemed to have been sufficient if they were such as to show an intention on the part of each of the parties to become thereby lawfully married.

(3) Any person, not being a marriage officer, who purports to solemnize a marriage, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

PART IV

SOLEMNIZATION OR REGISTRATION OF MARRIAGES

Customary law marriages

15 Solemnization of customary law marriages

(1) Every marriage contracted according to customary law, including the case where a man takes to wife the widow or widows of a deceased relative, shall be solemnised before the appropriate marriage officer of the district in which either party resides.

(2) A marriage officer in a customary law marriage may put to either of the parties to a proposed marriage or to the witnesses any questions relevant to the identity or conjugal status of the parties to the proposed marriage and to the existence of impediments to the marriage.

(3) Any person who refuses to answer, or wilfully gives a false answer to, any question put to him or her in terms of subsection (2) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(4) If any person impersonates either of the parties to a marriage, he or she shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

(5) If the marriage officer is satisfied—

(a) that the intended husband and wife freely and fully consent to the marriage; and

(b) that no lawful impediment exists to the proposed marriage;

he or she shall proceed in terms of section *thirty* and such marriage shall be a valid marriage contracted according to customary law.

16 Unregistered customary law marriages

(1) A marriage contracted solely according to customary law and not solemnised in terms of this Act must be registered by the parties to such marriage within three months of the date the union was entered into or such later date as may be prescribed, and for that purpose, the parties to the union shall furnish to the Registrar, such information and in such form as may be prescribed and any additional information which the Registrar may reasonably require, to enable the Registrar to register the marriage.

(2) If the Registrar is satisfied that such a marriage took place, he or she shall record the identity particulars of the parties concerned, the date of the marriage and brief details of the marriage consideration, if any, which was or is to be paid in respect of the marriage whereupon he or she shall issue the parties with a certificate of registration of a customary law marriage.

(3) Failure to register a marriage contracted at customary law does not affect the validity of the marriage at customary law with respect to the status, guardianship, custody and the rights of succession of the children of such marriage.

Civil marriages

17 Publication of banns or notice of intention to marry or issue of marriage licence before marriage

(1) Subject to subsection (2), no marriage officer shall solemnize any marriage unless in respect thereof and in terms of this Act or a prior law—

- (a) each of the parties has caused banns of marriage to be published; or
- (b) each of the parties has caused a notice of intention to marry to be published; or
- (c) one of the parties has caused banns of marriage to be published and the other has caused a notice of intention to marry to be published; or
- (d) a marriage licence has been issued.

(2) A party to a proposed marriage within Zimbabwe may, if the law of the country in which he is ordinarily resident does not require the publication of banns of marriage or of notice of intention to marry, lodge with the marriage officer concerned a certificate issued by an appropriate authority in that country to the effect that there is no impediment to the proposed marriage, and such certificate shall be accepted by the marriage officer *in lieu* of a certificate or notice of intention to marry if the marriage officer is satisfied that publication of such banns or notice of intention is not required by the laws of that country.

18 Application for publication and acceptance of banns

(1) Any party who desires to cause banns of marriage to be published shall deliver or cause to be delivered to any minister of religion at least two days prior to the intended publication or at any such time prior to such publication as such minister of religion may in his or her discretion allow, a written application to publish such banns:

Provided that no such application to publish such banns shall be accepted by a minister of religion unless the party concerned has resided in the area in which such minister of religion holds office for a period of at least fourteen days immediately preceding the date of the receipt of such application.

(2) An application referred to in subsection (1) shall—

- (a) state the full names, age, status and residential address of each of the parties; and
- (b) bear the signature of each of the parties and be dated by either of them.

(3) Nothing contained in this Act shall be construed as compelling any minister of religion to accept and publish any banns of marriage.

19 How publication of banns of marriage to be made

(1) Any minister of religion or any person authorized by the authority governing the religious denomination or organization concerned may publish banns of marriage.

(2) Such banns of marriage shall specify the full names and residential address of each of the persons to be married and publication thereof shall, subject to subsection (3), be made either—

- (a) in an audible manner, some time during public divine service, on three Sundays preceding the solemnization of the marriage, in the face of the congregation before whom such minister of religion or other authorized person officiates; or
- (b) by posting the banns, for an unbroken period covering three successive Sundays preceding the solemnization of the marriage, in a conspicuous place in or in the immediate vicinity of the ordinary place of worship of the congregation concerned.

(3) If the principal public divine service of a denomination or organization is held weekly on a day other than a Sunday, publication of banns in terms of paragraph (a) of subsection (2) may be made during such a service on such day instead of on a Sunday.

20 Certificate of publication of banns

(1) Subject to section *twenty-seven*, a minister of religion shall, on the application of either of the persons desiring to marry and after banns of marriage have been published in terms of section *nineteen*, issue to such person or persons a certificate to the effect that the banns have been so published.

(2) A certificate in terms of subsection (1) shall state the full names, age, status and residential address of each of the parties concerned and the dates on which or period during which publication of the banns was made, and may contain such further particulars as such minister of religion may think fit.

21 Publication outside Zimbabwe of banns or notice of intention to marry

(1) Banns of marriage or a notice of intention to marry, as the case may be, published in a country outside Zimbabwe shall, for the purposes of this Act, be regarded as having been published in Zimbabwe, but a marriage officer shall not solemnize any marriage in pursuance thereof unless there is produced to him proof that publication of such banns or such notice, as the case may be, was duly made according to the law of such country.

(2) Section *twenty-five* shall apply, *mutatis mutandis*, with reference to any banns or notice referred to in subsection (1).

22 Notice of intention to marry

(1) Any party who desires the publication of a notice of intention to marry shall apply in the manner prescribed to a magistrate to publish such notice.

(2) An application in terms of subsection (1) shall—

- (a) state the full names, age, status and residential address of each of the parties; and
- (b) bear the signature of each of the parties and be dated by either of them.

(3) If the magistrate to whom such application is made is satisfied that the applicant has resided in the district in respect of which the magistrate holds office, for a period of at least fourteen days immediately preceding the date of the receipt of the application, he or she shall publish such notice by posting it in a conspicuous place in or in the immediate vicinity of his or her office for a continuous period of fifteen days.

(4) If only one of the parties concerned has so resided in such district it shall, for the purposes of section *seventeen*, be deemed that only such party caused such notice to be published.

(5) Every notice referred to in subsection (3) shall state the full names, status and residential address of each of the parties desiring to marry.

23 Certificate of publication of notice of intention to marry

(1) Subject to section *twenty-seven*, any magistrate who has in terms of section *twenty-two* published a notice of intention to marry shall, on the application of either of the persons desiring to marry and on payment to him of the prescribed fee, if any, issue to such person a certificate to the effect that such notice was so published.

(2) A certificate in terms of subsection (1) shall state the full names, age, status and residential address of each of the parties as well as the period during which such notice was published.

24 Marriage licence

(1) Parties desiring to marry without the publication of banns or notice of intention to marry may personally apply to a magistrate for a licence to marry without the publication of banns or notice to marry.

(2) The magistrate to whom an application in terms of subsection (1) is made shall require each of the parties to furnish him or her with their full names, age, status and residential address and may put to each of them such questions as he or she may deem necessary to determine whether any lawful impediment exists to the proposed marriage.

(3) If the magistrate to whom an application in terms of subsection (1) is made is not satisfied that the proposed marriage may be legally solemnized, he or she shall, in order to determine whether there is any lawful impediment to the marriage, interrogate each of the parties, demand the production of relevant documents and institute such other inquiries as he or she may think necessary.

(4) For the purpose of any interrogation in terms of subsection (3), the magistrate may administer an oath to each such party.

(5) If the magistrate is satisfied, whether or not after any interrogation and inquiries in terms of this section, that there is no lawful impediment to the proposed marriage, he or she shall, upon completion by each of the parties of a solemn declaration to the effect that there is no lawful impediment to the proposed marriage and upon payment of the prescribed fee, if any, issue to them a marriage licence in the prescribed form.

(6) If the magistrate is not satisfied in terms of subsection (5), he or she shall refuse to issue a marriage licence.

25 Period of validity of banns, notice of intention to marry and marriage licence

(1) Unless a marriage is solemnized in pursuance of banns of marriage or notice of intention to marry published, or a marriage licence issued, under this Act within three months of the first date of publication of such banns or notice or the date of issue of such licence, such banns or notice or licence, as the case may be, shall lapse and no marriage shall be solemnized in pursuance thereof.

(2) No person shall be entitled to a refund of any fee paid in respect of a certificate or licence which has lapsed by virtue of subsection (1).

26 Informalities in publication of banns or notice of intention to marry or in issue of marriage licence

Where the provisions of this Act relating to the publication of banns or notice of intention to marry or to the issue of a marriage licence, or the applicable provisions of any law of a country outside Zimbabwe relating to the publication of banns or notice of intention to marry, have not been strictly complied with by reason of an error, omission or oversight on the part of any person responsible for such publication or such issue, that marriage shall, if there is no other lawful impediment thereto, be as valid as it would have been if those provisions had been strictly complied with.

Provisions applicable to all marriages

27 Objections to marriage

(1) Any person desiring to raise any objection to any proposed marriage shall lodge such objection in writing with—

- (a) the person who makes publication of the relevant banns of marriage or notice of intention to marry:

Provided that, in the case of banns published in terms of paragraph (a) of subsection (2) of section *nineteen*, any person desiring to raise any objection may do so orally, and such objector shall, if so required by the person making the publication, confirm such objection in writing; or

- (b) the magistrate who issues a marriage licence in respect of such proposed marriage; or
- (c) the marriage officer who is to solemnize such marriage.

(2) If any such objection is brought to the notice of—

- (a) the marriage officer who—
 - (i) is required to issue a certificate in terms of section *twenty* or *twenty-three*; or
 - (ii) is to solemnize the marriage; or
- (b) the magistrate who has issued a marriage licence in terms of section *twenty-four*;

such marriage officer or magistrate, as the case may be, shall inquire into the ground of objection and, if satisfied that there is no lawful impediment to the proposed marriage, such marriage officer may issue the relevant certificate or solemnize the marriage, as the case may be, and such magistrate need take no further action.

(3) If such marriage officer or magistrate is not satisfied in terms of subsection (2), he or she shall refuse to issue the relevant certificate or solemnize the marriage, as the case may be, and where a marriage licence had been issued, such magistrate shall take steps to cancel the marriage licence.

28 Proof of age and identity of parties to proposed marriage

A marriage officer shall not solemnize a marriage and a Registrar shall not register a marriage unless he or she has satisfied himself or herself as to the age and identity of the parties and for that purpose, each party shall furnish to the marriage officer or the Registrar, as the case may be, an appropriate identity document as proof of his or her age and identity.

29 Time and place for, and presence of parties and witnesses at, solemnization of marriage

(1) A marriage may be solemnized at any time.

(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 or other place approved by such marriage officer, in the presence of the parties themselves and at least two witnesses of or above the age of eighteen years.

(3) No person shall, under this Act, be capable of contracting a valid marriage through any other person acting as his or her representative.

30 Marriage formula

In solemnizing any marriage the marriage officer, if he or she is a minister of religion, may follow the rites usually observed by his or her religious denomination or organization, but any other marriage officer shall cause each of the parties in some part of the proceedings to make the following declaration—

“I do solemnly declare that I know not of any lawful impediment why, I, A.B., may not be joined in matrimony to C.D., here present.”

and each of the parties shall say to the other—

“I call upon these persons here present to witness that I, A.B., do take C.D. to be my lawful wedded wife (or husband).”

31 Certain marriage officers may refuse to solemnize certain marriages

Nothing contained in this Act shall be construed as compelling a marriage officer who is—

- (a) a minister of religion, to solemnize a marriage which would not conform to the rites or discipline of his or her religious denomination or organization; or
- (b) a magistrate or Chief, to solemnize a marriage outside the ordinary hours of attendance observed at offices of the State.

32 Payments to marriage officers

(1) It shall not be lawful for any marriage officer, other than a minister of religion, to demand or receive any gift or reward for or by reason of anything done or to be done by him or her as a marriage officer in terms of this Act.

(2) A minister of religion may receive such remuneration ordinarily paid to a minister of religion in terms of the rules and regulations of his or her religious denomination or organization for or by reason of anything done or to be done by him or her in terms of this Act.

33 Blessing of a marriage

(1) Nothing in this Part shall be construed as precluding a minister of religion or a person holding a responsible position in a religious denomination or organization from—

- (a) blessing, according to the rites of his or her religious denomination or organization, any marriage contracted within or outside Zimbabwe; or
- (b) making such entries and issuing such documents as may be required by rules or regulations made by his or her religious denomination or organization in connection with the religious blessing of marriages, if such entry or document does not purport to have been made or issued in terms of this Act.

(2) A minister of religion acting in terms of this section shall inform the parties that the blessing of a marriage does not create a marriage as defined in this Act.

PART V

REGISTRATION OF MARRIAGES

34 Registrar of Marriages

For the purpose of performing the functions assigned to him or her by this Act, there shall be a Registrar of Marriages whose office shall be a public office and shall form part of the Civil Service.

35 Register of marriages

(1) Immediately after the solemnization of a marriage, the marriage officer shall make an entry thereof in the marriage register book to be kept for that purpose and shall complete two duplicate original registers of that entry, inserting therein the same particulars as appear in the entry.

(2) Every such marriage register book and the duplicate originals thereof shall be in the form prescribed and every entry therein shall include all the particulars required by that form.

(3) Every such entry shall be signed by the marriage officer and by the parties married and shall be attested by at least two witnesses of or above the age of eighteen years and each of the duplicate original registers of such entry shall be signed and attested by the same persons.

(4) One duplicate original register of the entry shall be delivered to the parties and the other shall, as soon as possible but not later than thirty days after the date of the marriage, be transmitted to the Registrar, together with any declaration, certificate or other document required by or in terms of this Act or any other law to be delivered to the marriage officer in respect of the marriage.

(5) Every marriage officer shall at all reasonable times, upon payment of the prescribed fee, if any, allow searches to be made in the marriage register books in his or her custody.

(6) Every extract from a marriage register which purports to be certified as a true copy therefrom by the marriage officer who for the time being has the custody of the marriage register and every duplicate original register shall respectively be good evidence of the facts recorded therein in any proceedings before any court and shall be admissible upon its mere production by any person.

36 Registration of marriages by Registrar

(1) The Registrar shall file in his or her office all duplicate original registers and other documents transmitted to him or her in terms of this Act and shall forthwith register, in a book to be kept in his or her office for that purpose and to be called the Marriage Registration Book, such particulars as may be prescribed of every duplicate original register filed by him or her.

- (2) Upon payment of the prescribed fee, the Registrar shall—
- (a) on application made in writing, cause a search to be made in the Marriage Registration Book and of duplicate original registers filed by him or her;
 - (b) subject to subsection (3), issue certified copies of a duplicate original register filed by him or her.
- (3) The Registrar may—
- (a) refuse to issue a certified copy of any duplicate original register referred to in paragraph (b) of subsection (2) where he or she is not satisfied that such copy is being required for a purpose which, in his or her opinion, is a lawful or proper one or for any other reason;
 - (b) issue a limited number only of certified copies of any duplicate original register referred to in paragraph (b) of subsection (2) to any one applicant therefor.

37 Correction of errors

(1) The Registrar may correct any clerical error or error of fact or substance in any duplicate original register filed in his or her office or in possession of the parties to the marriage if there is produced to him or her such evidence as he or she may require, stating the nature of the error and the true facts of the matter, and he or she is satisfied that an error has been made.

(2) If the Registrar makes any correction in terms of subsection (1), he or she shall direct the marriage officer having the custody of the marriage register book in which the marriage in question is entered to make a like correction to the entry in that book.

PART VI

OFFENCES AND MISCELLANEOUS PROVISIONS

38 Penalty for failure to comply with section 35

Any marriage officer who knowingly fails to comply with section *thirty-five* shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

39 Penalties for solemnizing marriage contrary to this Act and for false representation or statement

Any marriage officer who knowingly solemnizes a marriage in contravention of this Act or 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 to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

40 Civil partnerships

- (1) A relationship between a man and a woman who—
- (a) are both over the age of eighteen years; and
 - (b) have lived together without legally being married to each other; and
 - (c) are not within the degrees of affinity or consanguinity as provided in section *seven*; and
 - (d) having regard to all the circumstances of their relationship, have a relationship as a couple living together on a genuine domestic basis;

shall be regarded as being in a civil partnership for the purposes of determining the rights and obligations of the parties on dissolution of the relationship and, for this purpose, sections 7 to 11 of the Matrimonial Causes Act [*Chapter 5:13*] shall *mutatis mutandis* apply on the dissolution of any such relationship.

(2) The circumstances referred to in paragraph (d) may include--

- (a) the duration of the relationship;
- (b) the nature and extent of their common residence;
- (c) whether a sexual relationship exists;
- (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
- (e) the ownership, use and acquisition of their property;
- (f) the degree of mutual commitment to a shared life;
- (g) the care and support of children;
- (h) the reputation and public aspects of the relationship.

(3) No particular factor in relation to any circumstance may be regarded as necessary in determining whether or not the persons concerned have a civil partnership marriage.

(4) A court determining whether a civil partnership exists is entitled to have regard to such matters, and to attach such weight to any matter, as may seem appropriate to the court in the circumstances of the case.

(5) A civil partnership exists notwithstanding that one or both of the persons are legally married to someone else or are in another civil partnership marriage.

41 Certificate of no impediment to marriage

(1) A person who intends to marry outside Zimbabwe in accordance with the law of another country may apply to the Registrar for a certificate of no impediment to the proposed marriage.

(2) An application must—

- (a) be made in the prescribed form; and
- (b) contain the prescribed information; and
- (c) be accompanied by the prescribed fee.

(3) On receipt of an application, the Registrar must make whatever searches and inquiries he or she considers necessary to determine the status of the applicant as required for purposes of the proposed marriage in the country concerned.

(5) The Registrar may issue a certificate of no impediment to the applicant if the Registrar is satisfied that no lawful impediment to the proposed marriage exists and ensure that the certificate discloses any specific information that may be required in the country concerned.

42 Void and voidable marriages

(1) The following marriages shall be void, namely--

- (a) any marriage of a child under eighteen years of age;
- (b) any civil marriage where either of the parties was, at the time of the marriage, lawfully married to some other person;

- (c) subject to subsection (3) of section 75 of the Criminal Law Code, any marriage in which the parties are within the prohibited degrees of relationship;
- (d) the consent of either of the parties was not real consent because--
 - (i) it was obtained by duress or fraud;
 - (ii) a party was mistaken as to the identity of the other party or as to the nature of the ceremony performed; or
 - (iii) a party was mentally incapable of understanding the nature and effect of the marriage ceremony by reason of mental illness, intoxication or was under the influence of drugs;
 - (iv) any marriage of convenience in circumvention of any law.
- (2) The following marriages shall be voidable, namely—
 - (a) any marriage where a party has remained incapable of consummating the marriage;
 - (b) where any formalities required in terms of this Act have not been complied with.
- (3) The annulment of a marriage referred to in subsections (1)(a) and (2)(a) shall not affect—
 - (a) any right or interest in any real or personal rights to which a person who was a child at the date of the purported marriage had become entitled to by reason of the said marriage;
 - (b) the rights of any child of the marriage with respect to status, guardianship, custody and rights of succession.

43 Recognition of marriages of foreigners

A foreign marriage is recognised as valid if, at the time of the marriage was contracted in any country--

- (a) none of the spouses was already married; or
- (b) the spouses were not related to one another by consanguinity or by adoption; or
- (c) none of the spouses was under the age of eighteen years; or
- (d) none of the spouses suffered a mental incapacity to consent; or
- (e) each spouse freely and fully consented to the marriage.

44 Dissolution of marriages

Subject to this Act, no marriage solemnized or registered or deemed to be solemnized or registered in terms of this Act shall be dissolved except by order of court of competent jurisdiction in terms of the Matrimonial Causes Act [*Chapter 5:13*].

45 Regulations

- (1) The Minister may make such regulations as he or she may think necessary for giving effect to the provisions of this Act.
- (2) Regulations made in terms of subsection (1) may provide for—
 - (a) prescribing anything which in terms of this Act is to be prescribed;
 - (b) the form and content of certificates, notices, affidavits, declarations, marriage register books and the Marriage Registration Book for the purposes of this Act;
 - (c) the custody and disposal of marriage register books;

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

46 Repeals, savings and transitional provisions

(1) The Customary Law Marriages Act [*Chapter 5:07*] and the Marriages Act [*Chapter 5:11*] are repealed.

(2) Notwithstanding subsection (1)—

- (a) any marriage which was contracted, solemnised, registered or was valid in terms of any prior law shall continue to be valid and shall be deemed to have been contracted in terms of this Act;
- (b) every marriage register which was kept in terms of any prior law and any document which was issued or anything commenced or done in terms of any prior law shall be deemed to have kept, issued, commenced or done, as the case may be, under the corresponding provision of this Act;
- (c) any statutory instruments which immediately before the date of commencement of this Act were in force under the Acts referred to in subsection (1) shall remain in force as if they had been made under this Act.

(3) The parties to any unregistered customary law marriage contracted before the date of coming into operation of this Act shall secure the registration of such marriage in terms of this Act within twelve months of the date of coming into operation of this Act.

47 Amendment of section 2 of Cap.5:05

The Child Abduction Act [*Chapter 5:05*] is amended in section 2 ("Interpretation") by the repeal of the definition of "child" and the substitution of--

"child", notwithstanding Article 4 of the Convention, means a person under the age of eighteen years;".

48 Amendment of sections 2 and 47 of Cap.5:06

The Children's Act [Chapter 5:06] is amended—

- (a) in section 2 (Interpretation), in the definition of—
 - (a) "child", by the deletion of "16" and the substitution of "18";
 - (b) "legal guardian", by the deletion of "and includes a husband of a girl who is under the age of 18 years of age".
- (b) in section 47 (Transfer of certain parental powers), by the deletion from subsection (4) of "or the power to consent to marriage of a pupil, child or young person".

49 Amendment of section 4 of Cap.5:08

The Guardianship of Minors Act [*Chapter 5:08*] is amended in section 4 (Guardianship and custody of minors), by the deletion from subsection (1) of "which shall include the power to consent to a marriage".

50 Amendment of section 11 of Cap.5:09

The Maintenance Act [Chapter 5:09] is amended in section 11 (Termination order), in subsection (1), by the repeal of paragraph (c).

51 Amendment of section 8 of Cap.5:13

The Matrimonial Causes Act [*Chapter 5:13*] is amended in section 8 (Duration of maintenance orders) in subsection (2), by the deletion form paragraph (a) of “or marries”.

52 Amendment of section 15 of Cap.8:07

The General Law Amendment Act [Chapter 8:07] is amended in section 15 (Reduction of age of majority from 21 to 18), by the repeal of subsection (5).

53 Amendment of section 75 of Cap.9:23

The Criminal Law (Codification and Reform) Act [Chapter 9:23] is amended in section 75 (Sexual intercourse within a prohibited degree of relationship), in subsection (2), by the deletion form paragraphs (b) and (j) of “Marriage Act [Chapter 5:11] or the Customary Marriages Act [Chapter 5:07]” and the substitution of “Marriages Act, 2017”.