

Marriage Act 1963

Chapter 280.

[Marriage Act 1963.](#)

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 280.

[Marriage Act 1963.](#)

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

[Marriage Act 1963](#),

Being an Act relating to marriage.

[PART I](#) – PRELIMINARY.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears–

“Ambassador” includes Minister, Head of Mission and Chargé d’Affaires;

“authorized celebrant” means–

(a) a minister of religion registered under Section 28(1); or

(b) the Registrar-General; or

(c) a person authorized by the Minister under Section 34(2) to solemnize marriages;

“the commencement date” means 21 January 1965 (being the date of commencement of the pre-Independence [Marriage Act 1963](#));

“consul” includes a consul-general, vice-consul, pro-consul and consular agent;

“consular office” means an office of consul or trade commissioner;

“consular officer” means—

(a) a person appointed to hold, or act in, a consular office of the Government in a place outside the country; or

(b) a person appointed to hold, or act in, a consular office of the Government of Australia in a place outside Papua New Guinea and Australia;

“diplomatic office” means an office of—

(a) Ambassador; or

(b) High Commissioner; or

(c) Commissioner; or

(d) counsellor, secretary or attaché at an embassy, High Commissioner’s office, legation or other post;

“diplomatic officer” means—

(a) a person appointed to hold, or act in, a diplomatic office of the Government in a place outside the country; or

(b) a person appointed to hold, or act in, a diplomatic office of the Government of Australia in a place outside Papua New Guinea and Australia;

“guardian” includes a guardian by custom, and where under relevant custom, there is more than one guardian, means the principal guardian;

“Magistrate” means a Magistrate of a District Court;

“minister of religion” means—

(a) a person recognized by a religious body or a religious organization as having authority to solemnize marriages in accordance with the rites or customs of the body or organization; and

(b) in relation to a religious body or a religious organization in respect of which Paragraph (a) is not applicable, a person nominated by—

(i) the head or the governing authority in the country of the body or organization; or

(ii) such other person or authority acting on behalf of the body or organization as is prescribed,

to be an authorized celebrant for the purposes of this Act;

“minor” means a person who has not attained the age of 21 years;

“overseas country” means a country or place other than Papua New Guinea or a part of the Queen’s dominions;

“prescribed authority”, in relation to a marriage proposed to be solemnized in the country, means a person appointed by the Head of State, acting on advice, to be a prescribed authority;

“the Queen’s dominions” includes a British protectorate and a British protected State;

“recognized denomination” means a religious body or a religious organization declared under Section 26 to be a recognized denomination for the purposes of this Act;

“the Registrar-General” includes a Deputy Registrar-General;

“the regulations” means any regulations made under this Act;

“this Act” includes the regulations.

(2) Where—

- (a) a marriage is solemnized in the presence of a person in whose presence a marriage may, in accordance with this Act, be lawfully solemnized; and
(b) he consents to the marriage being solemnized in his presence,

he shall be deemed, for the purposes of this Act, to solemnize the marriage.

2. APPLICATION.

This Act does not affect the validity or invalidity of a marriage that took place before the commencement date.

PART II. – CUSTOMARY MARRIAGES.

3. CUSTOMARY MARRIAGES.

(1) Notwithstanding the provisions of this Act or of any other law, a native, other than a native who is a party to a subsisting marriage under Part V. may enter, and shall be deemed always to have been capable of entering, into a customary marriage in accordance with the custom prevailing in the tribe or group to which the parties to the marriage or either of them belong or belongs.

(2) Subject to this Act, a customary marriage is valid and effectual for all purposes.

4. RELIGIOUS RITES.

Notwithstanding the provisions of this Act or of any other law, religious rites or ceremonies may be performed in connection with a customary marriage.

5. PROTECTION OF WOMEN.

(1) A District Court Magistrate may, by order, forbid the marriage of a woman in accordance with custom, or purportedly in accordance with custom, where the woman objects to the marriage or purported marriage and—

- (a) excessive pressure has been brought to bear to persuade her to enter into the marriage; or
(b) in the circumstances it would be a hardship to compel her to conform to custom.

(2) A person who marries, or purports to marry, a woman in contravention of an order under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

(3) Where a marriage or purported marriage by custom has been entered into in contravention of this section, a District Court may, on application made by or on behalf of the woman at the first reasonably practicable opportunity after the marriage or purported marriage, order that the marriage or purported marriage be annulled as from the date of the order, and may make such further or other order in the premises, whether to adjust property rights as though the marriage were dissolved in accordance with custom, or otherwise, as to it seems just.

PART III. – MARRIAGEABLE AGE AND MARRIAGES OF MINORS.

6. APPLICATION OF PART III.

(1) This Part applies, notwithstanding any common law rule of private international law, in relation to marriages under Division V.2.

(2) Section 7 and, so far as they have application in relation to that section, Sections 13 and 14 apply in relation to—

(a) marriages to which Division V.3 applies; and

(b) the marriage of a person domiciled in the country, wherever it takes place.

(3) This Part does not apply to customary marriages.

7. MARRIAGEABLE AGE.

(1) Subject to this section—

(a) a male person is of marriageable age if he has attained the age of 18 years; and

(b) a female person is of marriageable age if she has attained the age of 16 years.

(2) A male person who has attained the age of 16 years but has not attained the age of 18 years, or a female person who has attained the age of 14 years but has not attained the age of 16 years, may apply to a Judge or Magistrate for an order authorizing him or her to marry a particular person of marriageable age.

(3) The Judge or Magistrate shall hold an inquiry into the relevant facts and circumstances and, if he is satisfied that—

(a) the applicant has attained—

(i) in the case of a male person—the age of 16 years; or

(ii) in the case of a female person—the age of 14 years; and

(b) the circumstances of the case are so exceptional and unusual as to justify the making of the order,

he may, in his discretion, make the order sought, but otherwise he shall refuse the application.

(4) Subject to Subsection (7), where a Judge or Magistrate has made an order under Subsection (3) the person on whose application the order was made is, in relation to his or her marriage to the other person specified in the order, but not otherwise, of marriageable age.

(5) Where a Judge or a Magistrate to whom an application is made under Subsection (2) is satisfied that the matter could more properly be dealt with by a Judge or a Magistrate sitting at a place nearer the place where the applicant ordinarily resides, he may, in his discretion, refuse to proceed with the hearing of the application.

(6) For the purposes of Section 14, a refusal under Subsection (5) shall not be deemed to be a refusal of the application.

(7) Where an order is made under Subsection (3) and the marriage to which the order relates does not take place within three months after the date of the order, the order ceases to have effect.

8. CONSENT TO MARRIAGE OF MINOR.

(1) Subject to this Part, where a party to an intended marriage—

- (a) is a minor; and
- (b) has not previously been married,

the marriage shall not be solemnized, unless there is produced to the person by whom or in whose presence the marriage is solemnized—

(c) in respect of each person whose consent is required by this Act to the marriage of the minor (other than a person to whom Paragraph (d) is applicable)—

- (i) the written consent of the person, duly witnessed and dated not earlier than three months before the date on which the marriage is solemnized or, in such cases as are prescribed, such other evidence that the consent of that person to the intended marriage has been given not earlier than such time as the regulations declare to be sufficient for the purposes of this section; or
- (ii) an effective written consent of a Judge or Magistrate under this Part in place of the consent of that person; or

(d) in respect of a person whose consent to the marriage of the minor has been dispensed with by a prescribed authority—the written dispensation signed by the prescribed authority.

(2) (2) For the purposes of Subsection (1), the consent of a person is duly witnessed if his signature was witnessed—

- (a) in the case of a consent signed in Papua New Guinea—by an authorized celebrant, Commissioner for Declarations, justice, lawyer, medical practitioner or commissioned officer of the Police Force; or
- (b) in the case of a consent signed in Australia—by a person who is a competent witness to a consent under Section 13 of the Marriage Act 1961 of Australia, as in force from time to time; or
- (c) in the case of a consent signed in any other place—by a diplomatic officer or consular officer, a judge of a court of that place, a magistrate or justice of the peace of or for that place, or a notary public.

(3) A person shall not subscribe his name as a witness to the signature of a person to a consent to a marriage unless—

- (a) he is satisfied on reasonable grounds as to the identity of the person; and
- (b) the consent bears the date on which he subscribes his name as a witness.

(4) A person shall not solemnize a marriage if he has reason to believe that—

- (a) a person, whose written consent to the marriage of one of the parties is or has been produced for the purposes of this section, has revoked his consent; or
- (b) the signature of a person to a consent produced for the purposes of this section is forged or has been obtained by fraud; or
- (c) a consent produced for the purposes of this section has been altered in a material particular without authority; or
- (d) a dispensation with the consent of a person that has been produced in relation to the marriage has ceased to have effect.

9. PERSONS WHOSE CONSENT IS REQUIRED.

(1) The person or persons whose consent is required by this Act to the marriage of a minor shall, subject to this section, be ascertained by reference to Schedule 1 according to the facts and circumstances existing in relation to the minor.

(2) For the purposes of Schedule 1—

(a) a minor is an adopted child if he was adopted under—

- (i) the law of Papua New Guinea; or
- (ii) the law of any other place; and

(b) a minor born illegitimate whose parents subsequently married each other is the legitimate child of his parents.

(3) Where an Act provides that a person specified in the Act is to be, or is to be deemed to be, the guardian of a minor, to the exclusion of a parent or other guardian of the minor, that person is the person whose consent is required by this Act to the marriage of the minor.

(4) Where, under a law, a person specified in the law is, or is to be deemed to be, a guardian of a minor in addition to the parents or other guardian of the minor, the consent of that person is required to the marriage of the minor in addition to the consent of the person or persons ascertained in accordance with Schedule 1.

10. DISPENSING WITH CONSENT.

(1) Subject to this section, a prescribed authority may, on written application by a minor, dispense with the consent of a person to a proposed marriage of the minor in a case where the prescribed authority—

(a) is satisfied that it is impracticable, or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable, to ascertain his views with respect to the proposed marriage; and

(b) has no reason to believe that he would refuse his consent to the proposed marriage; and

(c) has no reason to believe that facts may exist by reason of which it could reasonably be considered improper that the consent should be dispensed with.

(2) An application under Subsection (1)—

(a) shall be supported by a statutory declaration by the applicant setting out the facts and circumstances on which the application is based; and

(b) may be supported by a statutory declaration by some other person.

(3) The applicant shall state in his statutory declaration whether he has made any previous applications under Subsection (1) that have been refused, and if so the date on which each such application was refused.

(4) This section does not authorize a prescribed authority to dispense with the consent of a person to a marriage of a minor where any other person whose consent to the marriage is required by this Act has refused to give his consent, unless a Judge or Magistrate has given his consent under this Part in place of the consent of the other person.

(5) For the purposes of this section, the fact that a person does not reside in, or is absent from, the country does not of itself make it impracticable to ascertain his views.

11. CONSENT BY MAGISTRATE.

(1) Where, in relation to a proposed marriage of a minor—

(a) a person whose consent to the marriage is required by this Act refuses to consent to the marriage; or

(b) an application by the minor under Section 10 for dispensation with the consent of such a person is refused,

the minor may apply to a Magistrate for the consent of the Magistrate to the marriage in place of the consent of that person.

(2) Subject to Subsection (3), a Magistrate to whom application is made under Subsection (1) shall hold an inquiry into the relevant facts and circumstances and, if he is satisfied—

(a) in a case to which Subsection (1)(a) applies—that the person who has refused to consent to the marriage has refused his consent unreasonably; or

(b) in a case to which Subsection (1)(b) applies—that, having proper regard for the welfare of the minor, it would be unreasonable for him to refuse his consent to the proposed marriage,

he may give his consent to the marriage in place of the consent of the person in relation to whose consent the application is made.

(3) Where a Magistrate to whom an application is made under Subsection (1) is satisfied that the matter could more properly be dealt with by a Magistrate sitting at a place nearer the place where the applicant ordinarily resides, he may, in his discretion, refuse to proceed with the hearing of the application.

(4) For the purposes of Sections 12 and 14 a refusal under Subsection (3) shall not be deemed to be a refusal of the application.

(5) Where a Magistrate grants an application under Subsection (1)—

(a) he shall not issue his consent to the marriage before the expiration of the time prescribed for the purposes of Section 12; and

(b) if, within that time, a request for a re-hearing is made under that section he shall not issue his consent unless the request is withdrawn.

(6) Where a Magistrate gives his consent to the marriage of a minor in place of the consent of a person who has refused to consent to the marriage, the Magistrate may also, on application by the minor, give his consent in place of the consent of any other person if he is satisfied that it is impracticable, or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable, to ascertain his views with respect to the proposed marriage.

(7) For the purposes of Subsection (6), the fact that a person does not reside in, or is absent from, the country does not of itself make it impracticable to ascertain his views.

12. RE-HEARING OF APPLICATIONS.

(1) Where—

(a) an application under Section 11(1) or (6) is refused; or

(b) an application under Section 11(1) is granted,

the applicant or the person in relation to whose consent the application was made may, in the prescribed manner and within the prescribed time, request that the application be re-heard by a Judge, and a Judge may re-hear the application.

(2) Section 11(2), (6) and (7) apply, as far as they are applicable, in relation to the re-hearing of an application made under that section, and for the purpose of such a re-hearing references to the Magistrate dealing with an application shall be read as references to the Judge re-hearing the application.

13. PROCEDURE AT INQUIRIES.

(1) In conducting an inquiry under this Part, a Judge or a Magistrate—

(a) is not bound to observe strict legal procedure or apply technical rules of evidence, but shall admit and consider such relevant evidence as is available (including hearsay); and

(b) shall give to the applicant and, so far as is reasonably practicable, any person whose consent to the marriage of the applicant is required by this Act an opportunity of being heard.

(2) An inquiry by a Judge or a Magistrate under this Part shall be held in private.

(3) An applicant or other person who is given an opportunity of being heard at an inquiry under this Part may be represented by a lawyer or agent.

14. RESTRICTIONS ON CERTAIN APPLICATIONS.

(1) Where, in relation to a proposed marriage of a minor to a particular person—

(a) an application under Section 7(2) or 11 has been refused by a Judge or Magistrate; or

(b) an application under Section 10 has been refused by a prescribed authority,

a further application under the same provision or, in the case of a refused application under Section 7(2), or under Section 12, by the same person in relation to the proposed marriage shall not be considered by a prescribed authority, Judge or Magistrate within six months after the refusal of the application, unless the applicant satisfies the prescribed authority, Judge or Magistrate to whom the further application is made that there has been a substantial change in the relevant facts or circumstances since the refusal of the former application.

(2) The fact that an application is heard or dealt with in contravention of Subsection (1) does not affect the validity of an order made, or the effectiveness of a consent given, on the application or the re-hearing of the application, or make ineffective a dispensation with a consent granted on the application.

15. EFFECT OF CONSENT OF JUDGE OR MAGISTRATE.

Subject to Section 16, where a Judge or a Magistrate gives his consent to the marriage of a minor in place of the consent of another person, his consent operates, for the purposes of this Act, as the consent of that other person.

16. PERIOD OF EFFECT OF CONSENT OR DISPENSATION.

(1) A consent to a marriage given by a Judge or a Magistrate in place of the consent of another person ceases to have effect if the marriage does not take place within three months after the date of the consent.

(2) A dispensation with the consent of a person to a marriage ceases to have effect if—

(a) the marriage does not take place within three months after the date of the dispensation; or
(b) before the marriage takes place, the person whose consent has been dispensed with notifies, by writing under his hand or in any other prescribed manner, the person to whom notice of the intended marriage has been given under this Act that he does not consent to the marriage.

(3) Where a consent by a Judge or a Magistrate, or a dispensation with the consent of a person by a prescribed authority, has ceased to have effect, the provisions of this Act apply as if the consent had not been given or dispensed with, as the case may be.

PART IV. – VOID AND VOIDABLE MARRIAGES.

17. VOID MARRIAGES.

(1) Subject to Subsection (2) and to Sections 20 and 21, a marriage is void if—

(a) either of the parties is, at the time of the marriage, lawfully married to some other person; or
(b) the parties are within the prohibited degrees of consanguinity or affinity; or
(c) the marriage is not a valid marriage under the law of the place where the marriage takes place, by reason of a failure to comply with the requirements of the law of that place with respect to the form of solemnization of marriages; or

(d) the consent of either of the parties is not a real consent because—

(i) it was obtained by duress or fraud; or

(ii) the party is mistaken as to the identity of the other party, or as to the nature of the ceremony

performed; or

(iii) the party is mentally incapable of understanding the nature of the marriage contract; or

(e) either of the parties is not of marriageable age.

(2) Subsection (1)(c) does not apply in relation to—

(a) a marriage that was solemnized under the Marriage (Overseas) Act 1955 of Australia, as in force from time to time, including a marriage to which Section 24 of that Act applies; or

(b) a marriage that was solemnized under Part V. of the Marriage Act 1961 of Australia, as in force from time to time, including a marriage to which Section 83 of that Act applies; or

(c) any other marriage recognized in Australia by virtue of either of those Acts or the regulations made under either of those Acts.

18. PROHIBITED DEGREES OF CONSANGUINITY AND AFFINITY.

(1) The prohibited degrees of consanguinity and affinity are set out in Schedule 2.

(2) Subject to Subsection (3), a marriage solemnized before the commencement date is not voidable on the ground of consanguinity or affinity of the parties unless the parties were, at the time of the marriage, within one of the degrees of consanguinity or affinity set out in Schedule 2.

(3) Subsection (2) does not make voidable a marriage that would not, apart from that subsection, be voidable.

19. PROHIBITED DEGREES IN RESPECT OF RELATIONSHIPS BY ADOPTION.

(1) In this section, “adopted child” means—

(a) a person adopted under a law—

(i) at any time in force in the area of Papua New Guinea; or

(ii) of a State or Territory of Australia; or

(b) a person adopted under the law of any other place, if the adoption of the person would be recognized as valid under the law of Papua New Guinea.

(2) Subject to this section, Sections 17 and 18 and Schedule 2 have effect as if a relationship of consanguinity specified in that Schedule included a relationship traced through, or to, a person who is or was an adopted child.

(3) For the purposes of Subsection (2), the relationship between an adopted child and his adoptive parent, or each of his adoptive parents, shall be deemed to be or to have been the natural relationship of child and parent.

(4) Subsections (2) and (3) do not make it lawful for a person to marry a person whom he could not lawfully have married if those subsections had not been enacted.

(5) For the purposes of this section—

(a) a person who has at any time been adopted by another person shall be deemed to remain his adopted child notwithstanding that—

(i) any order by which the adoption was effected has been annulled, cancelled or discharged; or
(ii) the adoption has for any other reason ceased to be effective; and

(b) a person who has been adopted on more than one occasion shall be deemed to be the adopted child of each person by whom he has been adopted.

20. MARRIAGE WITHIN PROHIBITED DEGREES OF AFFINITY.

(1) Where two persons who are within the prohibited degrees of affinity wish to marry one another, they may apply, in writing, to a Judge for permission to do so.

(2) If the Judge is satisfied that the circumstances of the particular case are so exceptional as to justify the granting of the permission sought, he may, by order, permit the applicants to marry one another.

(3) Where persons marry under a permission granted under Subsection (2), the validity of their marriage is not affected by the fact that they are within the prohibited degrees of affinity.

21. MARRIAGE WITHIN PROHIBITED DEGREES BY REASON OF SECTION 19.

(1) Where two persons who are within the prohibited degrees of consanguinity set out in Schedule 2 by reason only of the operation of Section 19 wish to marry one another, they may apply, in writing, to a Judge for permission to do so.

(2) Subject to Subsection (3), if the Judge is satisfied that the circumstances of the particular case are so exceptional as to justify the granting of the permission sought, he may, by order, permit the applicants to marry one another.

(3) This section does not authorize the granting of permission to marry to persons the relationship between whom is, by reason of the operation of Section 19, that of parent and child or brother and sister.

(4) Where persons marry under a permission granted under this section, the validity of their marriage is not affected by the fact that they are within the prohibited degrees of consanguinity by reason of the operation of Section 19.

22. VOIDABLE MARRIAGES.

(1) For the purposes of Subsection (2), “mental defective” means a person who, owing to an arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, requires oversight, care or control for his own protection or for the protection of others, and is, by reason of that fact, unfitted for the responsibilities of marriage.

(2) Subject to this Act, a marriage, not being a marriage that is void, is voidable where, at the time of the marriage—

- (a) either party to the marriage is incapable of consummating the marriage; or
- (b) either party to the marriage is—
 - (i) of unsound mind; or
 - (ii) a mental defective; or
- (c) either party to the marriage is suffering from a venereal disease in a communicable form; or
- (d) the wife is pregnant by a person other than the husband.

23. VALIDITY, ETC., OF CERTAIN MARRIAGES.

(1) Except as expressly provided in this Part, this Part does not affect the validity or invalidity of a marriage that took place before the commencement date.

(2) Subject to Section 24, no provision of this Act affects the validity or invalidity of a marriage where it would not be in accordance with the common law rules of private international law to apply that provision in relation to the marriage.

24. APPLICATION OF PROHIBITED DEGREES.

(1) The provisions of Sections 17, 18 and 20 relating to the prohibited degrees of consanguinity and affinity and Schedule 2 apply in relation to marriages in the country, other than marriages to which Division V.3 applies, wherever the parties are domiciled or intend to make their home.

(2) Subsection (1) does not prevent the application of any common law rule of private international law in relation to a marriage or purported marriage that takes place outside the country otherwise than under Part V. of the Marriage Act 1961 of Australia, as in force from time to time.

PART V. – SOLEMNIZATION OF MARRIAGES.

Division 1.

Authorization of Ministers of Religion and other Persons as Celebrants.

25. INTERPRETATION OF DIVISION 1.

(1) In this Division, a reference to a register shall be read as a reference to a register kept for the purposes of this Division.

(2) For the purposes of this Division, a person who—

- (a) is serving outside the country as a member of the Defence Force; and
- (b) was, immediately before he became a member, ordinarily resident in the country,

shall be deemed, while he is so serving, to be ordinarily resident in the country.

26. DECLARATION OF RECOGNIZED DENOMINATIONS.

The Minister may, by notice in the National Gazette, declare a religious body or a religious organization to be a recognized denomination for the purposes of this Act.

27. QUALIFICATIONS FOR REGISTRATION.

Subject to this Division, a person is entitled to registration under this Division if—

- (a) he is a minister of religion of a recognized denomination; and
- (b) he is nominated for registration under this Division by that denomination; and
- (c) he is ordinarily resident in the country; and
- (d) he has attained the age of 21 years.

28. REGISTRATION.

(1) Subject to this Division, the Registrar-General shall, on application in accordance with the regulations by a person ordinarily resident in the country who is entitled to registration under this Division, register him under this Division.

(2) The Registrar-General may refuse to register a person under this Division if, in the opinion of the Registrar-General—

- (a) there are already registered under this Division sufficient ministers of religion of the denomination to which the applicant belongs to meet the needs of the denomination in the locality in which the applicant resides; or
- (b) the applicant is not a fit and proper person to solemnize marriages; or
- (c) the applicant is unlikely to devote a substantial part of his time to the performance of functions generally performed by a minister of religion.

29. EFFECT OF REGISTRATION.

A minister of religion who is registered under this Division may solemnize marriages at any place in the country.

30. CANCELLATION OF REGISTRATION.

(1) Subject to this section, the Registrar-General shall cancel the registration of a person under this Division if he is satisfied that—

- (a) he has requested that his registration be cancelled; or
- (b) he has died; or
- (c) the denomination by which he was nominated for registration, or in respect of which he is registered, no longer desires that he be registered under this Division or has ceased to be a recognized denomination; or
- (d) he—
 - (i) has been guilty of such contravention of this Act as to show him not to be a fit and proper person to be registered under this Division; or
 - (ii) has been making a business of solemnizing marriages for the purpose of profit or gain; or
 - (iii) is not a fit and proper person to solemnize marriages; or
- (e) he is, for any other reason, not entitled to registration under this Division.

(2) The Registrar-General shall not, under this section, cancel the registration of a person on a ground specified in Subsection (1)(d) or (e) unless he has first given to him, in accordance with the regulations, at least two months' written notice of his intention to do so on that ground.

(3) In a notice under Subsection (2), the Registrar-General shall call on the person to whom it is given to show cause, within the period specified in the notice, why his registration under this Division should not be cancelled.

(4) The Registrar-General shall consider any representations made by the person to whom a notice under Subsection (2) is given within the period specified in the notice.

(5) A person to whom a notice under Subsection (2) is given shall not solemnize a marriage until—

(a) he is notified by the Registrar-General that the Registrar-General has decided not to cancel his registration under this Division; or

(b) the Minister has directed, under Section 31, that his registration under this Division be restored.

31. REVIEW OF REFUSAL OR CANCELLATION OF REGISTRATION.

(1) Where the Registrar-General—

(a) refuses to register a person who has applied for registration under this Division; or

(b) cancels under Section 30 the registration of a person,

the person may, within one month after the refusal or cancellation, as the case may be, or within such further time as the Minister allows, by writing under his hand request the Minister to review the refusal or cancellation.

(2) The Minister shall consider the matter and, after making such investigations as he thinks proper, may—

(a) confirm the refusal or cancellation; or

(b) direct that—

(i) the person concerned be registered; or

(ii) the registration under this Division of the person concerned be restored,

as the case requires.

32. CHANGE OF PARTICULARS FOR REGISTRATION.

(1) Where a person who is registered under this Division—

(a) changes his name, his address or his designation; or

(b) ceases to exercise, or ceases to be entitled to exercise, the functions of a minister of religion of the denomination by which he was nominated for registration or in respect of which he is registered,

he shall, within one month, notify the Registrar-General as prescribed.

(2) On receiving notification of a change of name, address or designation under Subsection (1), or if the Registrar-General is otherwise satisfied that the particulars shown in the registration of a person under this Division are not correct, he may amend the registration.

33. RETURNS BY RECOGNIZED DENOMINATIONS.

The regulations may make provision for and in relation to the furnishing to the Registrar-General, by a recognized denomination, of—

- (a) information as to matters affecting the right to registration under this Division of persons who are registered as ministers of religion of the denomination; and
- (b) an annual list of persons registered under this Division as ministers of religion of the denomination who are exercising the functions of ministers of religion of the denomination.

34. AUTHORIZATION OF OTHER CELEBRANTS.

(1) The Registrar-General may solemnize marriages in any part of the country.

(2) The Minister may, by instrument, authorize suitable persons to solemnize marriages.

(3) An authorization under Subsection (2)—

- (a) may authorize a person to solemnize marriages at any place in the country or in a part of the country specified in the instrument of authorization; and
- (b) is subject to such conditions (if any) as are specified in the instrument of authorization.

Division 2.

Marriages by Authorized Celebrants.

35. APPLICATION OF DIVISION 2.

This Division applies to and in relation to all marriages solemnized, or intended to be solemnized, in the country, other than marriages to which Division 3 applies.

36. SOLEMNIZATION OF MARRIAGES.

A marriage shall be solemnized by or in the presence of an authorized celebrant who is authorized to solemnize marriages at the place where the marriage takes place.

37. NOTICES, DECLARATIONS, ETC., AS TO INTENDED MARRIAGES.

(1) Subject to this section, a marriage shall not be solemnized unless—

- (a) written notice of the intended marriage has been given in accordance with this section and has been received by the authorized celebrant solemnizing the marriage—
 - (i) not earlier than three months before the date of the marriage and not later than the seventh day before the date of the marriage; or

(ii) where the authorized celebrant certifies in writing that the giving of seven days' notice was not reasonably practicable in the circumstances, not later than the second day before the date of the marriage; and

(b) there has been produced to the authorized celebrant, in respect of each of the parties—

(i) an official certificate or an official extract of an entry in an official register, showing the date and place of his or her birth; or

(ii) a declaration made by him or her, or by one of his or her parents, stating that, for reasons specified in the declaration, it is impracticable to obtain such a certificate or extract and stating, to the best of the declarant's knowledge and belief and as accurately as the declarant has been able to ascertain, where and when the party was born; and

(c) each of the parties has made and subscribed before the authorized celebrant a declaration, in the prescribed form, as to—

(i) his or her conjugal status; and

(ii) his or her belief that there is no legal impediment to the marriage; and

(iii) such other matters as are prescribed.

(2) A notice under Subsection (1)—

(a) shall be in the prescribed form; and

(b) shall contain such particulars in relation to the parties as are specified in that form; and

(c) subject to Subsection (3), shall have been signed by each of the parties in the presence of an authorized celebrant, Commissioner for Declarations or justice.

(3) Where the signature of a party to an intended marriage cannot conveniently be obtained at the time when it is desired to give notice under this section, a notice—

(a) duly signed by the other party and otherwise complying with the provisions of this section; and

(b) signed by the first-mentioned party in the presence of an authorized celebrant before the marriage is solemnized,

shall be deemed to have been a sufficient notice.

(4) Where a party to an intended marriage is unable, after reasonable inquiry, to ascertain all the particulars in relation to him or her required to be contained in a notice under this section, the failure to include in the notice such of those particulars as he or she is unable to ascertain does not make the notice ineffective for the purposes of this section if, at any time before the marriage is solemnized, he or she furnishes to the authorized celebrant solemnizing the marriage a statutory declaration as to his or her inability to ascertain the particulars not included in the notice, and the reason for that inability.

(5) If a prescribed authority is satisfied that the circumstances of a particular case justify his so doing, he may—

- (a) authorize an authorized celebrant to solemnize a marriage; or
- (b) where he is also an authorized celebrant and there is no other authorized celebrant suitable to the parties conveniently available, solemnize a marriage himself,

notwithstanding the fact that the notice required by Subsection (1) has been received later than the seventh day before the date of the marriage.

(6) Where, by reason of the death, absence or illness of an authorized celebrant to whom a notice of intention to marry has been given, or for any other reason, it is impracticable for him to solemnize the marriage, the marriage may be solemnized by any authorized celebrant who has possession of the notice.

(7) The declarations of the parties required by Subsection (1) shall both be written on the same paper and on the same side of that paper.

(8) An authorized celebrant shall not solemnize a marriage if—

(a) he has not satisfied himself that the parties are the parties referred to in the notice given under this section in relation to the marriage; or

(b) he has reason to believe that—

(i) a notice given under this section; or

(ii) a declaration made and subscribed under this section, or a statutory declaration made for the purposes of this section,

in relation to the marriage, contains a false statement or an error or is defective.

(9) An authorized celebrant may permit an error in a notice under this section to be corrected in his presence by either of the parties at any time before the marriage to which it relates has been solemnized, and may treat the corrected notice as having been originally given in its corrected form.

(10) Where the declaration made under Subsection (1) by a party states that he or she is a divorced person or a widower or widow, an authorized celebrant shall not solemnize the marriage unless there is produced to him evidence of his or her divorce, or of the death of his or her spouse, as the case requires.

38. TIME AND PLACE OF SOLEMNIZATION.

A marriage may be solemnized on any day, at any time and at any place.

39. WITNESSES.

A marriage shall not be solemnized unless at least two persons who are, or appear to the person solemnizing the marriage to be, over the age of 16 years are present as witnesses.

40. FORM OF CEREMONY.

(1) Where a marriage is solemnized by or in the presence of an authorized celebrant who is a minister of religion, it may be solemnized according to any form and ceremony recognized as sufficient for the purpose by the religious body or organization of which he is a minister.

(2) Where a marriage is solemnized by or in the presence of an authorized celebrant who is not a minister of religion, it is sufficient if each of the parties says to the other, in the presence of the authorized celebrant and the witnesses, the words—

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

or words to that effect.

(3) Subject to Subsection (4), where a marriage has been solemnized by or in the presence of an authorized celebrant a certificate of the marriage prepared and signed in accordance with Section 45 is conclusive evidence that the marriage was solemnized in accordance with this section.

(4) Subsection (3) does not make a certificate conclusive—

(a) where the fact that the marriage ceremony took place is in issue—as to that fact; or

(b) where the identity of a party to the marriage is in issue—as to the identity of the party.

41. EXPLANATION OF MARRIAGE RELATIONSHIP.

(1) Subject to Subsection (2), before a marriage is solemnized by or in the presence of an authorized celebrant who is not a minister of religion of a recognized denomination he shall say to the parties, in the presence of the witnesses, the words—

“I am duly authorized by law to solemnize marriages according to law.

“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn and binding nature of the relationship into which you are now about to enter.

“Marriage, according to law, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”

or words to that effect.

(2) Where the Minister is satisfied that the form of ceremony to be used by a person authorized under Section 34(2) to solemnize marriages sufficiently states the nature and obligations of marriage, he may, either by the instrument by which that person is so authorized or by a subsequent instrument, exempt him from compliance with Subsection (1).

42. POSITION OF CLERGY AS TO SOLEMNIZATION OF MARRIAGE.

This Part does not—

(a) impose an obligation on an authorized celebrant who is a minister of religion to solemnize a marriage; or

(b) prevent such an authorized celebrant from making it a condition of his solemnizing a marriage that—

- (i) longer notice of intention to marry than that required by this Act is given; or
- (ii) requirements additional to those prescribed by this Act are observed.

43. INVALIDITY OF CERTAIN MARRIAGES.

(1) Subject to this Act, a marriage solemnized otherwise than in accordance with the preceding provisions of this Division is not a valid marriage.

(2) A marriage is not invalid by reason of all or any of the following matters:—

- (a) failure to give the notice required by Section 37, or a false statement, defect or error in such a notice;
- (b) failure of the parties, or either of them, to make or subscribe a declaration as required by Section 37, or a false statement, defect or error in such a declaration;
- (c) failure to produce to the authorized celebrant a certificate or extract of an entry or a statutory declaration as required by Section 37, or a false statement, defect or error in such a statutory declaration;
- (d) failure to comply with, or a contravention of, any other requirement of Section 37;
- (e) failure to comply with the requirements of Section 39 or 41;
- (f) failure to comply with the requirements of Section 8.

(3) A marriage is not invalid by reason of the fact that the person solemnizing it was not authorized by this Act to do so, if either party to the marriage believed, at the time when the marriage was solemnized, that that person was lawfully authorized to solemnize it.

(4) In a case to which Subsection (3) applies 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 by the marriage the lawfully wedded spouse of the other.

44. RETENTION OF CONSENTS, ETC.

An authorized celebrant to whom a consent, dispensation with consent or statutory declaration is produced under this Act shall retain it in his possession until he deals with it in accordance with Section 45.

45. MARRIAGE CERTIFICATES.

(1) Where an authorized celebrant solemnizes a marriage, he shall—

- (a) prepare a certificate of the marriage, in the prescribed form, for the purpose of issue to the parties to the marriage; and
- (b) prepare two official certificates of the marriage in the prescribed form.

(2) Immediately after the solemnization of the marriage, the authorized celebrant, each of the parties to the marriage and two witnesses of the marriage who are, or appear to the authorized celebrant to be, over the age of 16 years shall sign each of the certificates prepared under Subsection (1).

(3) One of the official certificates shall be on the reverse side of the paper bearing the declarations made by the parties under Section 37.

(4) The authorized celebrant shall—

(a) hand the certificate referred to in Subsection (1)(a) to one of the parties to the marriage, on behalf of the parties; and

(b) forward the official certificate referred to in Subsection (3), together with the notice under Section 37 and any statutory declarations, consents and dispensations with consents relating to the marriage that are in his possession, to the Registrar-General; and

(c) retain the other official certificate and deal with it as prescribed.

(5) Where—

(a) the authorized celebrant dies without having prepared and signed the certificates of the marriage; or

(b) by reason of other special circumstances the Minister thinks it necessary to do so,

the Minister may, if he is satisfied that a marriage was duly solemnized, prepare and sign the certificates with such modifications as are appropriate.

(6) A certificate by the Minister under Subsection (5) has the same force and effect as if it had been prepared and signed, in accordance with this section, by the authorized celebrant.

(7) The regulations may make provision for and in relation to the furnishing of a substitute certificate in the event of the loss or destruction of a certificate previously forwarded under this section in respect of a marriage.

Division 3.

Marriages by Foreign Diplomatic or Consular Officers.

46. INTERPRETATION OF DIVISION 3.

In this Division, unless the contrary intention appears—

“diplomatic or consular officer” in relation to an overseas country, means a person recognized by Papua New Guinea as a diplomatic or consular representative of that country in Papua New Guinea;

“proclaimed overseas country” means an overseas country in respect of which a notice under Section 48 is in force.

47. APPLICATION OF DIVISION 3.

This Division applies to marriages, in accordance with the law or custom of a proclaimed overseas country, between parties at least one of whom possesses the nationality of that country.

48. PROCLAIMED OVERSEAS COUNTRIES.

Where the Minister is satisfied, in relation to an overseas country, that the law or custom of that country authorizes the solemnization by or in the presence of diplomatic officers of that country, or consular officers of that country, or both, of marriages outside that country the Minister may, by notice in the National Gazette, declare that country to be a proclaimed overseas country for the purposes of this Division.

49. SOLEMNIZATION OF MARRIAGES BY CONSULAR OFFICERS, ETC.

This Act does not prevent the solemnization in Papua New Guinea of a marriage to which this Division applies by or in the presence of a diplomatic or consular officer of a proclaimed overseas country, if—

- (a) neither of the parties is a citizen of Papua New Guinea; and
- (b) each of the parties is of marriageable age; and
- (c) neither of the parties is already married to a person other than the other party to the marriage; and
- (d) the parties are not within the prohibited degrees of consanguinity set out in Schedule 2.

50. RECOGNITION OF MARRIAGES.

A marriage solemnized in Papua New Guinea by or in the presence of a diplomatic or consular officer of a proclaimed overseas country, being a marriage to which Section 49 was applicable, shall be recognized as valid in Papua New Guinea if—

- (a) the marriage is recognized as a valid marriage by the law or custom of the overseas country; and
- (b) the marriage has been registered in accordance with any law of Papua New Guinea relating to the registration of marriages.

PART VI. – LEGITIMATION.

51. EFFECT OF PART VI.

(1) This Part does not operate in relation to a child so as to affect the validity or effect of an adoption of the child, whether before or after the commencement date.

(2) This Part does not exclude the operation of any law that provides for, or requires, information to be supplied for the purpose of making or altering entries in a register, but a legitimation under this Part is not affected by failure to comply with such a law.

52. LEGITIMATION BY MARRIAGE OF PARENTS.

(1) A child (whenever born) whose parents were not married to each other at the time of his birth but have subsequently married each other is, by virtue of the marriage, for all purposes the legitimate child of his parents as from his birth or as from the commencement date, whichever was the later.

(2) Subsection (1) applies in relation to a child whether or not there was a legal impediment to the marriage of his parents at the time of his birth and whether or not he was living at the time of the marriage.

(3) Subsection (1) does not apply in relation to a child unless—

(a) at the time of the marriage of his parents his father was domiciled in, or was a bona fide resident of, Papua New Guinea; or

(b) the marriage of his parents took place—

(i) in Papua New Guinea or in Australia; or

(ii) outside Papua New Guinea and outside Australia, under the Marriage (Overseas) Act 1955 of Australia, as in force from time to time, or under Part V. of the Marriage Act 1961 of Australia, as in force from time to time.

(4) This section does not make ineffective a legitimation that took place before the commencement date.

(5) This section does not apply in relation to a child so as to affect any estate, right or interest in any property to which a person has become, or may become, entitled, whether mediately or immediately, and whether in possession or in expectancy, by virtue of a disposition that took effect, or by devolution by law on the death of a person who died, before the marriage of the parents of the child or the commencement date, whichever was the later.

53. FOREIGN LEGITIMATIONS.

(1) Where—

(a) the parents of a child born illegitimate (whenever born) have married each other; and

(b) the marriage took place outside Papua New Guinea and outside Australia; and

(c) the father of the child was not domiciled in Papua New Guinea or in Australia at the time of the marriage; and

(d) by the law of the place where the father was then domiciled the child became legitimated by virtue of the marriage,

the child is for all purposes the legitimate child of his parents as from the time of the marriage or as from the commencement date, whichever was the later.

(2) Subsection (1) applies in relation to a child whether or not the law of the place in which the father of the child was domiciled at the time of the birth of the child permitted or recognized legitimation by subsequent marriage, and whether or not the child was living at the time of the marriage.

54. LEGITIMACY OF CHILDREN OF CERTAIN VOID MARRIAGES.

(1) Subject to this section, a child of a marriage that is void shall be deemed for all purposes to be the legitimate child of his parents as from his birth or as from the commencement date, whichever was the later, if—

(a) at the time of the intercourse that resulted in the birth of the child; or

(b) at the time when the ceremony of marriage took place,

whichever was the later, either party to the marriage believed on reasonable grounds that the marriage was valid.

(2) Subsection (1) does not apply unless one of the parents of the child was domiciled in, or was a bona fide resident of, Papua New Guinea at the time of the birth of the child, or having died before that time was domiciled in, or was a bona fide resident of, Papua New Guinea immediately before his death.

(3) Subsection (1) applies in relation to a child (whenever born), whether the ceremony of marriage took place before or after the commencement date and whether the ceremony of marriage took place within or outside Papua New Guinea.

(4) This section does not apply in relation to a child so as to affect any estate, right or interest in any property to which a person has become, or may become, entitled, whether mediately or immediately, and whether in possession or in expectancy, by virtue of a disposition that took effect, or by devolution by law on the death of a person who died, before the birth of the child or the commencement date, whichever was the later.

55. DECLARATION OF LEGITIMACY, ETC.

(1) A person may apply to the National Court for an order declaring that—

- (a) he is the legitimate child of his parents; or
- (b) he or his parents or child, or a remoter ancestor or descendant, is or was a legitimate person,

and the Court may, in its discretion, make the order.

(2) On an application under this section, the National Court may—

- (a) direct that notice of the application be given to such persons (who may include the Minister) as the Court thinks proper; or
- (b) direct that a person be made a party to the application; or
- (c) permit a person having an interest in the matter to intervene in, and become a party to, the proceedings.

(3) Where the National Court makes an order on an application under this section, it may include in the order such particulars in relation to the legitimation of the person to whom it relates as the Court finds to be established.

(4) An order made under this section binds the State whether or not notice was given to the Minister, but does not affect—

- (a) the rights of another person unless that other person was—
 - (i) a party to the proceedings for the order, or a person claiming through such a party; or
 - (ii) a person to whom notice of the application for the order was given, or a person claiming through such a person; or
- (b) any earlier judgement, order or decree of a court of competent jurisdiction.

PART VII. – OFFENCES.

56. APPLICATION OF PART VII.

This Part applies to and in relation to marriages solemnized, or intended or purporting to be solemnized, in the country and, in relation to such marriages, applies both within the country and elsewhere.

57. BIGAMY.

(1) Subject to this section, a person who is married and goes through a form or ceremony of marriage with another person is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

(2) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that—

(a) at the time of the alleged offence, he believed that his spouse was dead; and
(b) his spouse had been absent from him for such time and in such circumstances as to provide, at the time of the alleged offence, reasonable grounds for presuming that his spouse was dead.

(3) For the purposes of Subsection (2), proof by a defendant that—

(a) his spouse had been continually absent from him for the period of seven years immediately preceding the date of the alleged offence; and
(b) at the time of the alleged offence the defendant had no reason to believe that his spouse had been alive at any time within that period,

is sufficient proof of the matters referred to in Subsection (2)(b).

(4) Subject to Subsection (5), a person who goes through a form or ceremony of marriage with a person who is married, knowing, or having reasonable grounds to believe, that the latter person is married, is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

(5) It is not an offence against this section for a person to go through a form or ceremony of marriage with his own spouse.

(6) In a prosecution for an offence against this section, the spouse of the accused person is a competent and compellable witness for either the prosecution or the defence.

(7) In a prosecution for an offence against this section, the fact that, at the time of the alleged offence, a person was married shall not be taken to have been proved if the only evidence of the fact is the evidence of the other party to the alleged marriage.

(8) This section does not apply to or in relation to a customary marriage entered into by a person who is a party to a subsisting customary marriage, where the custom applying to each of those marriages recognizes the other marriage as being, or continuing to be, valid.

58. MARRYING PERSON NOT OF MARRIAGEABLE AGE, ETC.

(1) Subject to Subsection (3), a person who goes through a form or ceremony of marriage with a person who is not of marriageable age is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

(2) Subject to Subsection (4), a person must not go through a form or ceremony of marriage with a person (in this subsection referred to as “the other party to the marriage”) who is a minor unless—

(a) the other party to the marriage has previously been married; or

(b) the written consent of the person, or of each of the persons, whose consent to the marriage of the other party to the marriage is required by this Act has been given or dispensed with in accordance with this Act.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

(3) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that he believed on reasonable grounds that the person with whom he went through the form or ceremony of marriage was of marriageable age.

(4) It is a defence to a charge of an offence against Subsection (2) if the defendant proves that he believed on reasonable grounds—

(a) that the person with whom he went through the form or ceremony of marriage had attained the age of 21 years, or had previously been married; or

(b) that the consent of the person, or of each of the persons, referred to in Subsection (2)(b) had been given or dispensed with in accordance with this Act.

(5) This section does not apply to or in relation to a customary marriage where the custom applying to the marriage recognizes it as being valid.

59. FALSE DECLARATIONS, ETC.

(1) A person who wilfully makes a false statement in a declaration under this Act is guilty of an offence.

(2) A person who, in connection with a proposed religious ceremony of marriage, makes to another person a written statement as to the matters specified in Section 71(5)(b) that, to the knowledge of the first-mentioned person, is false in a material particular is guilty of an offence.

(3) A person who forges, or forges a signature to, a document for the purpose of inducing another person to solemnize a marriage is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding four years.

60. PERSONATION OF PERSON WHOSE CONSENT IS REQUIRED.

A person who falsely represents himself to be a person whose consent to the marriage of another person is required by this Act is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

61. FORGED CONSENT, ETC.

(1) A person who presents, or causes to be presented, to a person authorized to solemnize marriages, a document—

(a) purporting to be the consent, or a dispensation with the consent, of a person to a marriage; and

(b) the signature to which—

(i) is, to the knowledge of the first-mentioned person, forged; or

(ii) was, to the knowledge of that person, obtained by fraud,

is guilty of an offence.

(2) A person who subscribes his name as a witness to the signature of a person to a consent to the marriage of a minor in contravention of Section 8(3) is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

62. SOLEMNIZING MARRIAGE IN CONTRAVENTION OF SECTION 37 OR 39.

(1) An authorized celebrant who solemnizes a marriage under Division V.2 in contravention of Section 37 or 39 is guilty of an offence.

(2) A person who solemnizes a marriage in contravention of Section 8 or 70 is guilty of an offence.

(3) A person who solemnizes a marriage in contravention of Section 30(5) is guilty of an offence.

(4) A person who, in contravention of Section 71(1)(b), purports to solemnize a marriage between persons—

(a) who inform him that they are already legally married to each other; or

(b) whom he knows or has reason to believe to be legally married to each other,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

63. SOLEMNIZING MARRIAGE WHERE LEGAL IMPEDIMENT.

A person who solemnizes a marriage, or purports to solemnize a marriage, in a case where he has reason to believe that there is a legal impediment to the marriage is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

64. UNAUTHORIZED SOLEMNIZING OF MARRIAGE.

Subject to Section 71(7), a person must not solemnize, or purport to solemnize, a marriage at a place in the country unless he is authorized by or under this Act to solemnize marriages at that place.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

65. FALSE STATEMENTS IN APPLICATIONS FOR REGISTRATION, ETC.

A person who wilfully—

(a) makes a false statement in an application for registration under Division V.1, or for authority to solemnize marriages under Section 34(2); or

(b) makes a false statement, whether orally or in writing, in support of such an application,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

66. GOING THROUGH CEREMONY OF MARRIAGE BEFORE UNAUTHORIZED PERSON.

A person who goes through a form or ceremony of marriage with another person—

(a) knowing that the person solemnizing the marriage is not authorized to solemnize it; and

(b) having reason to believe that the other party to the marriage believes that the person solemnizing the marriage is so authorized,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

67. GIVING OF DEFECTIVE NOTICES, ETC.

A person must not—

(a) give a notice to an authorized celebrant under Section 37; or

(b) sign a notice under that section after it has been given,

if, to the knowledge of that person, the notice contains a false statement or an error or is defective.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

68. FAILURE TO FORWARD MARRIAGE CERTIFICATE.

An authorized celebrant who fails to forward to the Registrar-General a certificate of a marriage solemnized by him in accordance with Section 45(4)(b) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

69. FAILURE BY INTERPRETER TO FURNISH CERTIFICATE, ETC.

A person who has acted as interpreter at the solemnization of a marriage who—

- (a) fails to comply with Section 70(3); or
- (b) wilfully makes a false statement in a certificate under that subsection,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

PART VIII. – MISCELLANEOUS.

70. INTERPRETERS AT MARRIAGE CEREMONIES.

(1) Subject to this section, where the person by whom or in whose presence a marriage is to be solemnized thinks that it is desirable to do so, he may use the services of an interpreter, not being a party to the marriage, in or in connection with the ceremony.

(2) A person shall not perform a marriage ceremony in or in connection with which the services of an interpreter are used unless he has received a statutory declaration by the interpreter stating that he understands, and is able to converse in, the languages in respect of which he is to act as interpreter.

(3) A person who has acted as interpreter in or in connection with a ceremony of marriage shall, immediately after the ceremony has taken place, furnish to the person solemnizing the marriage a certificate signed by him, in the prescribed form, of the faithful performance of his services as interpreter.

(4) This section applies in relation to marriages to which Division V.2 applies.

71. SECOND MARRIAGE CEREMONIES.

(1) Except in accordance with this section—

- (a) persons who are already legally married to each other shall not go through a form or ceremony of marriage with each other; and
- (b) a person who is authorized by this Act to solemnize marriages shall not purport to solemnize a marriage between persons—

- (i) who inform him that they are already legally married to each other; or
- (ii) whom he knows, or has reason to believe, to be already legally married to each other.

(2) Where—

- (a) two persons have gone through a form or ceremony of marriage with each other; and
- (b) there is a doubt—

- (i) whether they are legally married to each other; or
- (ii) where the form or ceremony of marriage took place outside the country, whether the

marriage would be recognized as valid by a court in the country; or
(iii) whether the marriage could be proved in legal proceedings,

they may, subject to this section, go through a form or ceremony of marriage with each other in accordance with Division V.2 as if they had not previously gone through a form or ceremony of marriage with each other.

(3) Where two persons wish to go through a form or ceremony of marriage with each other under Subsection (2), they shall furnish to the person by whom, or in whose presence, the form or ceremony is to take place or be performed—

(a) a statutory declaration by them—

(i) stating that they have previously gone through a form or ceremony of marriage with each other; and

(ii) specifying the date on which, the place at which and the circumstances in which they went through the form or ceremony; and

(b) a certificate by a lawyer, being a certificate endorsed on the statutory declaration, that, on the facts stated in the declaration, there is, in his opinion, a doubt as to one of the matters specified in Subsection (2)(b).

(4) The person by whom or in whose presence a form or ceremony of marriage takes place or is performed under Subsection (2) shall make an endorsement as prescribed on each certificate issued in respect of it.

(5) This Act does not prevent two persons who are already legally married to each other from going through a religious ceremony of marriage with each other if they have—

(a) produced to the person by whom or in whose presence the ceremony is to be performed a certificate of their existing marriage; and

(b) furnished to him a written statement, signed by them and witnessed by him—

(i) that they have previously gone through a form or ceremony of marriage with each other; and

(ii) that they are the parties mentioned in the certificate of marriage produced with the statement; and

(iii) that—

(A) they have no reason to believe that they are not legally married to each other; or

(B) if their marriage took place outside Papua New Guinea, they have no reason to believe that it would not be recognized as valid in Papua New Guinea.

(6) Sections 37, 39 and 45 do not apply to or in relation to a religious ceremony of marriage in accordance with Subsection (5) and the person by whom, or in whose presence, the ceremony is performed shall not—

(a) prepare or issue in respect of it a certificate of marriage under or referring to this Act; or

(b) issue any other document to the parties in respect of the ceremony unless the parties are described in the document as being already legally married to each other.

(7) A person who is not an authorized celebrant does not commit an offence against Section 64 by reason only of his having performed a religious ceremony of marriage between parties who have complied with the requirements of Subsection (5).

(8) This section does not prevent the parties to a customary marriage from going through a form or ceremony of marriage under Part V. if neither of them is a party to any other subsisting customary marriage.

72. POSITION OF CLERGY AS TO RE-MARRIAGES.

Nothing in this Act or in any other law binds a minister of religion to solemnize the marriage of a person whose former marriage has been dissolved, whether in the country or elsewhere, otherwise than by death.

73. JUDICIAL NOTICE.

(1) All courts, Judges and persons acting judicially shall take judicial notice of—

- (a) the signature of a person who is, or has been, an authorized celebrant appearing on a document under this Act; and
- (b) the fact that, at the time when the document was signed by him, he was an authorized celebrant.

(2) All courts, Judges and persons acting judicially shall take judicial notice of—

- (a) the signature of a person who has, at any time—
 - (i) performed the functions of a Judge or Magistrate under Part III. or IV.; or
 - (ii) performed the functions of a prescribed authority under this Act,

appearing on a document under this Act; and

- (b) the fact that, at the time when the document was signed, he was duly authorized to perform those functions—

74. EVIDENCE OF REGISTRATION UNDER SECTION 28.

(1) A certificate under the hand of the Registrar-General stating that a specified person was, at a date specified in the certificate, registered under Section 28 is evidence that the person specified in the certificate was registered under that section at the date so specified.

(2) A certificate under the hand of the Registrar-General stating that a person specified in the certificate was not, at a date specified in the certificate, registered under Section 28 is evidence that the person specified in the certificate was not registered under that section at the date so specified.

(3) In a prosecution for an offence against this Act, an averment by the prosecutor in the information or complaint that the defendant or any other person specified in the averment is identical with the person specified in a certificate under this section is evidence of that fact.

75. RIGHT OF CLERGY TO RECEIVE FEES.

This Act does not affect the right of a minister of religion who is an authorized celebrant to require or receive a fee for or in respect of the solemnization of a marriage.

76. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) the forms to be used under this Act; and
- (b) the practice and procedure in relation to—
 - (i) inquiries under Part III. by a Judge or a Magistrate; and
 - (ii) the hearing of applications under Section 20 or 21,

including the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation, the administering of oaths or affirmations and the payment of expenses of witnesses; and

- (c) the manner of making application for registration under Section 28; and
- (d) the fees to be charged in respect of the solemnization of marriages by authorized celebrants who are not ministers of religion; and
- (e) penalties of fines not exceeding K200.00 for offences against the regulations.

SCHEDULE 1 – PERSONS WHOSE CONSENT IS REQUIRED TO THE MARRIAGE OF A MINOR.

Sec. 9.

PART I – WHERE THE MINOR IS LEGITIMATE AND IS NOT AN ADOPTED CHILD.

Circumstances in relation to the minor.		Person or persons whose consent is required.
1.	Where both parents of the minor are alive—	
	(a) in any case other than a case to which Paragraph (b), (c) or (d) is applicable	Both parents.
	(b) if the parents are divorced or separated by order of a court or by agreement—	
	(i) if the minor lives permanently with one parent	The parent with whom the minor lives.

	(ii) if the minor lives with one parent for part of the year and with the other parent for the remainder of the year	Both parents.
	(c) if one parent has been deserted by the other parent	The parent who has been deserted.
	(d) if both parents have been deprived of the custody of the minor by the order of a court	The person or persons who has or have the custody of the minor under the order of the court.
2.	Where only one parent of the minor is alive–	
	(a) if there is no other guardian of the minor	The surviving parent.
	(b) if there is or are a guardian or guardians of the minor acting jointly with the surviving parent	The surviving parent and the other guardian or guardians.
	(c) if there is or are a guardian or guardians of the minor not acting jointly with the surviving parent	The guardian or guardians.
3.	Where both parents of the minor are dead–	
	(a) if there is or are a guardian or guardians of the minor	The guardian or guardians.
	(b) if there is no guardian of the minor	A prescribed authority.

PART II – WHERE THE MINOR IS ILLEGITIMATE AND IS NOT AN ADOPTED CHILD.

	Circumstances in relation to the minor.	Person or persons whose consent is required.
1.	Where the mother of the minor is alive–	
	(a) if she has not been deprived of the custody of the minor by the order of a court	The mother.
	(b) if she has been deprived of the custody of the minor by the order of a court	The person who has the custody of the minor under the order of the court.
2.	Where the mother of the minor is dead–	
	(a) if there is or are a guardian or guardians of the minor	The guardian or guardians.

	(b) if there is no guardian of the minor.	A prescribed authority.
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PART III – WHERE THE MINOR IS AN ADOPTED CHILD.

Circumstances in relation to the minor.		Person or persons whose consent is required.
1.	Where the minor was adopted by a husband and wife jointly	The person or persons who would be the prescribed person or persons under Part I if the minor had been born in lawful wedlock to his adoptive parents.
2.	Where the minor was adopted by one person only–	
	(a) if the adoptive parent is alive and has not been deprived of the custody of the minor by the order of a court	The adoptive parent.
	(b) if the adoptive parent is alive but has been deprived of the custody of the minor by the order of a court	The person who has the custody of the minor under the order of the court.
	(c) if the adoptive parent is dead–	
	(i) if there is or are a guardian or guardians of the minor	The guardian or guardians.
	(ii) if there is no guardian of the minor.	A prescribed authority.

SCHEDULE 2 – PROHIBITED DEGREES OF CONSANGUINITY AND AFFINITY.

Sec. 18.

Consanguinity.

Affinity.

Sch. 2.1-MEN.

The marriage of a man is prohibited if the woman is, or has been, his–

Ancestress

Wife’s mother

Descendant

Wife’s grandmother

Sister

Wife’s daughter

Father’s sister

Wife’s son’s daughter

Mother's sister
Brother's daughter
Sister's daughter

Wife's daughter's daughter
Father's wife
Grandfather's wife
Son's wife
Son's son's wife
Daughter's son's wife.

Sch. 2.2-WOMEN.

The marriage of a woman is prohibited if the man is, or has been, her—

Ancestor
Descendant
Brother
Father's brother
Mother's brother
Brother's son
Sister's son

Husband's father
Husband's grandfather
Husband's son
Husband's son's son
Husband's daughter's son
Mother's husband
Grandmother's husband
Daughter's husband
Son's daughter's husband
Daughter's daughter's husband.

Sch. 2.3-KINDS OF RELATIONSHIPS.

For the purposes of this Schedule, it is immaterial whether the relationship is of the whole blood or half-blood, or whether it is traced through, or to, a person of illegitimate birth.

Office of
Legislative
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PNG