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## CHAPTER 5:11

### MARRIAGE ACT SIMPLIFIED ARRANGEMENT OF SECTIONS

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

[Date of commencement: 1st March, 1965.]

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PART I  
PRELIMINARY

**1 Short title**

This Act may be cited as the Marriage Act [*Chapter 5:11*].

**2 Interpretation**

In this Act—

“**magistrate**” means any magistrate appointed in terms of the Magistrates Court Act [*Chapter 7:10*];

“**marriage**” means a marriage under this Act;

“**marriage license**” means a license to marry issued in terms of section *sixteen*;

“**marriage officer**” means any person who is a marriage officer by virtue of this Act;

“**Minister**” means the Minister of Justice, Legal and Parliamentary Affairs 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 *four*;

“**prior law**” means the Marriage Act [*Chapter 177 of 1963*] or the Validation of Marriages Act [*Chapter 180 of 1963*];

“**Registrar**” means the Registrar of Marriages referred to in section *thirty*.

PART II  
MARRIAGE OFFICERS

**3 Magistrate to be marriage officers for district**

Every magistrate shall be a marriage officer. This will only be for the time that he is a magistrate.

**4 Designation of ministers of religion and other persons as marriage officers**

(1) Where anyone in charge makes a request to have someone made into a marriage officer, the Minister may appoint that person. The person has to be someone with a responsible position in the religion.

(2) 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.

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

(1) The Minister may say that a person be regarded to have been a marriage officer where even though they solemnized a marriage without being an officer, they did so in good faith.

(2) A marriage which was solemnized by the person referred to in 5(1) shall be said to be valid and binding if the all the processes of the solemnized marriage were followed.

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(3) Nothing in subsection (1) contained shall excuse anyone from the liability to be prosecuted for any offence committed by him.

## **6 Change of name of religious denomination or organization and amalgamation of religious denominations or organizations**

(1) Where a denomination changes its name or goes and joins with another, the powers given to a marriage officer to solemnize marriages do not change.

(2) If an organization or denomination as mentioned in subsection (1) changes the name or joins with another, the organization or denomination should immediately tell the Minister of the changes.

## **7 Revocation of designation as marriage officer**

(1) The Minister may remove someone as a marriage officer. This may be done where someone misuses the power and the Minister discusses with the organization or denomination about the person's behavior.

(2) A minister of religion will stop being a marriage officer where he stops having a connection with any religious denomination or organization where he was made a marriage officer.

### **PART III**

#### **SOLEMNIZATION OF MARRIAGE**

## **8 Unauthorized solemnization of marriage ceremonies forbidden**

(1) A marriage may be solemnized by a marriage officer only.

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

## **9 Publication of banns or notice of intention to marry or issue of marriage license before marriage**

(1) In keeping in line with subsection (2) of this section, a marriage officer shall not solemnize any marriage unless in terms of this Act or law before this -

- (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 other has caused a notice of intention to marry to be published; or
- (d) a marriage license has been issued.

(2) If one of the people wanting to get married comes from a country that does not require publication of banns of marriage or notice of intention to marry, he or she may give the marriage

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officer a certificate saying this from an authority in his or her country. The marriage officer may accept this certificate in place of notice of intention to marry. Where the marriage officer is satisfied, then there will be no need to publish banns of marriage or put up a notice of intention to marry.

### **10 Application for publication and acceptance of banns**

(1) Anyone who wants their banns of marriage published should give any minister of religion their written application to publish the bands at least 2 days before the day they want them to be published. The minister shall not accept the banns if the person has lived in the district which the minister of religion presides over for less than 14 days.

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

- (a) state the full names, age, condition 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 in this Act contained shall be construed as compelling any minister of religion to accept and publish any banns of marriage.

### **11 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 shall, subject to subsection (3), be made either—

- (a) by clearly announcing the banns in a Sunday service three Sundays before the solemnization of the marriage or
- (b) by putting the banns of marriage on a notice board for three continuous weeks close to or in the place of solemnization before solemnization.

(3) Where the main service of a denomination or organization that happens on a day that is not 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.

### **12 Certificate of publication of banns**

(1) Keeping in line with section 19, a minister of religion will give a certificate to the people wishing to get married once all banns of marriage have been published. The certificate will state that the banns have been published.

(2) A certificate in terms of subsection (1) shall state the full names, age, condition 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 the minister of religion may think fit.

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### **13 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 *seventeen* shall apply, *mutatis mutandis*, with reference to any banns or notice referred to in subsection (1).

### **14 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, condition 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) The notice shall be published where the magistrate is satisfied that the applicant has at least lived in the area for 14 days before the application. The notice will be put on a public notice board or close to the magistrate's office for a 15 continuous days.

(4) Where only one of the parties lives in the district it will be considered that only that party would have caused the notice for the purposes of section 9.

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

### **15 Certificate of publication of notice of intention to marry**

(1) Keeping in line with section 19 and section 14, a notice of intention to marry.

### **16 Marriage license**

(1) Parties desiring to marry without the publication of banns or notice of intention to marry may personally apply to a magistrate for a license 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 give him with their full names, age, condition and residential address and may ask them questions which he sees necessary to determine whether anything that may lawfully stop them from getting married.

(3) If the magistrate is not satisfied with the application made to him/her in terms of subsection (1) he shall ask each person party to the application questions, ask for relevant documents and carry out any other process he may think necessary.

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

(5) The couple shall be asked to make a solemn declaration that there is nothing that lawfully stops them from being married if the magistrate is satisfied that there is nothing that should stop the two from the proposed marriage. After the couple pays the prescribed fee, the magistrate may issue them with a marriage license.

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

### **17 Period of validity of banns, notice of intention to marry and marriage license**

(1) Unless a marriage is solemnized in pursuance of banns of marriage or notice of intention to marry published, or a marriage license 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 license, such banns or notice or license, 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 license which has lapsed by virtue of subsection (1).

### **18 Informalities in publication of banns or notice of intention to marry or in issue of marriage license**

A marriage solemnized after 1 March 1965 shall be valid even though the requirements of this Act have not been fully complied with but there is no other lawful ground that the marriage should not stand.

### **19 Objections to marriage**

(1) Any person who wishes to bring forward a reason why the two should not get married can bring that reason in writing with—

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

In the case of banns published in terms of 11(2)(a), any person wishing to bring up a reason why the two should not get married may do so orally, and such he/she shall, if so required by the person making the publication, confirm these reasons in writing; or

(b) the magistrate who gives a marriage license in respect of such proposed marriage; or

(c) the marriage officer who is to solemnize the 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 12 or 15; or

(ii) is to solemnize the marriage; or

(b) the magistrate who has issued a marriage license in terms of section 16;

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The marriage officer or the magistrate should investigate the reasons the person has brought up to try stop the marriage. If the marriage officer or magistrate finds that the reasons are not legal reasons then he can issue the relevant certificate or solemnize the marriage. The magistrate will not need to take any further action.

(3) Where a marriage officer or magistrate is not satisfied in terms of subsection (2), he shall refuse to give the relevant certificate or solemnize the marriage. A magistrate shall take steps to cancel the marriage license.

## **20 Marriage of minors**

(1) For the purposes of this section and section 21—

“legal guardian” includes the mother of a minor where she and the father of such minor—

- (a) are living together lawfully as husband and wife; or
- (b) are divorced or are living apart and the sole guardianship of such minor has not been granted to either of them by order of the High Court or a judge thereof.

(2) A marriage of a minor will not be solemnized without written consent of the minor’s legal guardians. If the minor only has one legal guardian and has no written consent from the guardian:

Provided that—

- (i) Where the minor cannot get written consent from their legal guardian, a judge of the High Court may give consent to the marriage. This will be because consent cannot be given due to the absence of a guardian or not being able to access the guardian.
- (ii) Where a legal guardian refuses, a judge of the High Court may grant consent to the marriage. This consent will have the same effect as when the guardian would have given consent.

(3) The banns of marriage of a minor or notice of intention to marry void where the banns of marriage have been published and the guardian who is meant to give consent comes and refuses for the marriage to take place. The guardian should give notice to the marriage officer before he solemnizes the marriage. The banns or intention notice shall be void unless a judge of the High Court gives consent to the marriage.

(4) This section shall not apply to a person who is under the age of eighteen years and who previously contracted a valid marriage which has been ended by death or divorce.

## **21 Marriage of minors without consent voidable but not void**

(1) A marriage of a minor shall not be void because there was no consent given by a legal guardian/s or consent of a judge as mentioned in section 20. Such a marriage will be set aside and made void where the legal guardians who should have consented to the marriage make an application for this. This should be within 6 weeks of when they first found out about the marriage. The court may allow a different time frame:

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So long as the application is not made against the wishes of the minor if in fact the minor has turned 18 since the time of the marriage.

(2) If a minor gets into a marriage without the consent required under section 20, and that marriage is not set aside by 21(1), then that marriage shall have effect as though it was a marriage of persons of full age.

## **22 Prohibition of marriage of persons under certain ages**

(1) Boys under the age of 18 and girls under the age of 16 are not capable of entering a valid marriage. They can only contract to marry where the Minister allows them. The Minister may give permission in particular cases:

Provided that -

(i) the permission will not affect any other requirements of marriage under this Act;

(ii) permission from the Minister will not be necessary if the case has been given permission by a judge already

(2) If someone mentioned in subsection (1) enters into a marriage without the written permission of the Minister but the Minister considers the marriage valid, he may direct that it be considered a valid marriage in writing. The marriage must have been solemnized properly according to this Act.

(3) If the Minister directs this, it shall be taken that he granted written permission to the marriage before the solemnization.

## **23 Proof of age of parties to proposed marriage**

If a marriage officer suspects that one of the parties to the marriage is not of the age allowed for marriage, he can ask for proof of age and any other requirement as may be necessary under section 20 or 22.

## **24 Legality of marriages between persons within certain degrees of affinity or consanguinity**

(1) For the avoidance of doubt it is declared that, on and after 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;

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- (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 solemnization of the marriage—
- (a) the parties knew or realized 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 realized 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 realize that there was a real risk or possibility that they were related to each other as first or second cousins, such marriage shall not be void or voidable.
- (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 not be void or voidable if such marriage was contracted before the date of commencement of the Criminal Law Code.

## **25 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 representative.

## **26 Marriage formula**

In solemnizing any marriage the marriage officer, if he is a minister of religion, may follow the rites usually observed by his religious denomination or organization, but if he is any other marriage officer he 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).”

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## **27 Certain marriage officers may refuse to solemnize certain marriages**

Nothing contained in this Act forces 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 religious denomination or organization; or
- (b) a magistrate, to solemnize a marriage outside the ordinary hours of attendance observed at offices of the State

## **29 Blessing of a marriage**

Nothing in this part prevents 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 religious denomination or organization, any marriage contracted within Zimbabwe in accordance with this Act or outside Zimbabwe; or
- (b) making entries and issuing documents as required by rules or regulations made by his 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.

## **PART IV**

### **REGISTRATION OF MARRIAGES**

#### **30 Registrar of Marriages**

A Registrar of Marriages is appointed for the purpose of performing the functions assigned to him by this Act. The office shall be a public office which is part of the Public Service.

#### **31 Register of marriages**

(1) As soon as the solemnization of the marriage takes place, the marriage officer records it in the marriage register book and makes two duplicate original registers of that entry.

(2) Every marriage register book and the duplicate originals shall be in the prescribed form. Every entry shall include all details required by that form.

(3) Every entry shall be signed by the marriage officer and by the parties married. Two witnesses should also be present and they should be over the age of 18. The duplicates should be signed by everyone mentioned.

(4) Within 30 days, a duplicate of the original marriage entry should be forwarded to the Registrar for recording. Any other supporting document should also be forwarded including proof of consent, any declaration and all other relevant documents.

(5) When someone pays the prescribed fee, the marriage officer may allow searches to be made of any marriage register books that he has.

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### **32 Registration of marriages by Registrar**

(1) All duplicate original registers and all other documents sent to the Registrar shall be entered into the Marriage Registration Book.

(2) Upon payment of the prescribed fee, the Registrar shall—

(a) Make a search in the Marriage Registration Book and of duplicate original registers he filed when a written application to do so is made.

(b) Subject to subsection (3), issue certified copies of a duplicate original register filed by him.

(3) The Registrar may—

(a) refuse to issue a certified copy of any duplicate original register referred to in 32(2) (b) where he does not believe that the information asked for is for a lawful or proper reason;

(b) issue a limited number of copies to one person of any duplicate original register as mentioned 32(2) (b).

### **33 Correction of errors**

(1) The Registrar may correct any errors made in the duplicate original register. The error may be clerical, or an error of fact or substance. Sufficient evidence must be presented to him for the error to be corrected. The Registrar may also correct an error which is on a certificate which the married parties have.

(2) Where the Registrar makes a correction in his records, he will direct the relevant marriage officer to make the same correction in his records as well.

## **PART V**

### **OFFENCES AND PENALTIES**

#### **34 Penalty for failure to comply with section 31**

Any marriage officer who knowingly fails to comply with section 31 shall be guilty of an offence. The marriage officer will be liable to a fine no higher than level five or to imprisonment for a period of not more than six months or to both such fine and such imprisonment.

#### **35 Penalties for solemnizing marriage contrary to this Act and for false representation or statement**

It will be considered an offence in terms of this Act where a marriage officer solemnizes a marriage against this act or someone knowingly falsely represents or makes false statements when it comes to solemnization of a marriage. The person shall be guilty of a fine not higher than level ten or imprisonment for not more than five years or to both the fine and imprisonment.

## **PART VI**

### **MISCELLANEOUS**

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## **36 Regulations**

- (1) The Minister may make regulations in order to give effect to 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.

## **37 Savings**

A repeal in any law will not invalidate a marriage made in terms of that law. And where possible, anything that was done under any section of that law shall be deemed to have been made under a similar section of this Act.