[Chap2503]CHAPTER 25:03

ASIATICS (MARRIAGE, DIVORCE AND SUCCESSION)

ARRANGEMENT OF SECTIONS

SECTION

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13 of 1929
25 of 1967
G.N. 22/1963
16/1964(M)

An Act to regulate the Marriage, Divorce, and Succession on death to Property of Non-Christian Asiatics in Malawi.

[19TH DECEMBER 1929]

[Ch2503s1]1. Short title

This Act may be cited as the Asiatics (Marriage, Divorce and Succession) Act.

[Ch2503s2]2. Marriage of non-Christian Asiatics

(1) The marriage in Malawi of non-Christian Asiatics, whether domiciled in Malawi or not, who are not related to each other in any of the degrees of consanguinity or affinity prohibited by the law of the religion of either party to the marriage, shall, if the marriage is contracted in the manner customary in Malawi among persons professing the religion of either party to the marriage, be deemed for all purposes to be a valid marriage.

(2) This section shall apply to marriages contracted either before or after the commencement of this Act, but shall not render valid any invalid marriage—

(a) which, before the commencement of this Act, has been declared to be invalid by any competent court; or

(b) where either party to the marriage has, before the commencement of this Act, lawfully contracted a subsequent marriage which would be avoided by the validation of the previous marriage.

[Ch2503s3]3. Divorce of non-Christian Asiatics

(1) The divorce in Malawi of either party to a marriage of non-Christian Asiatics, whether domiciled in Malawi or not, shall, if the divorce is on grounds which are recognized as

valid grounds for divorce by the law of the religion of the person divorced and is effected in the manner customary in Malawi among persons professing that religion, be deemed for all purposes to be a valid divorce.

(2) This section shall apply to divorces effected either before or after the commencement of this Act.

[Ch2503s4]4. Saving of Marriage

Nothing in this Act shall affect the Marriage Act, or permit the dissolution of a marriage contracted under that Act. Cap. 25:01

[Ch2503s5]5. Registration of non-Christian marriages and divorces

(1) The Minister may, if he thinks fit, from time to time make Rules requiring the registration of all or any marriages contracted in Malawi by non-Christian Asiatics or of divorces from marriages between non-Christian Asiatics.

(2) Separate or different Rules may be made with respect to the marriages or divorces of persons professing any religion.

(3) Without prejudice to the generality of the foregoing provisions, any such Rules may—

(a) require the priest or other person performing the marriage ceremony or any witness to the marriage to issue a certificate of marriage in the prescribed form;

(b) provide for the issue of certificates of divorce;

(c) require a marriage or divorce to be registered within the period prescribed by the Rules;

(d) provide for the proof of a marriage or divorce registered under any such Rules;

(e) impose fees for the issue of certificates of marriage or divorce and for the issue of copies or translations of certificates of marriage or divorce or of certified extracts from any register and for the disposal of any such fees; and

(f) impose a fine not exceeding £50 or imprisonment of either description for a period not exceeding six months or both such fine and imprisonment for the breach or non-observance of any rule.

[Ch2503s6]6. Saving of titles acquired for value

No alteration in law effected by this Act shall affect any title to property acquired for value before the commencement of this Act.

[Ch2503s7]7. Ascertainment of law of a religion

(1) For the purposes of this Act, the law of the religion of any person shall be that law subject to any special custom recognized and adopted by his co-religionists domiciled in Malawi, or, in the case of a Hindu, by members of the caste so domiciled.

(2) A court may ascertain the law of any religion or any custom by any means which it thinks fit, and may act on information which appears to the court to be credible though it is not legal evidence, and in case of doubt or uncertainty may decide as the principles of justice, equity, and good conscience may dictate.

SUBSIDIARY LEGISLATION

ASIATICS (MARRIAGE REGISTRATION) RULES

under s. 5

G.N. 188/1956

22/1963

166/1967

19/1997

23/2005

1. Citation

These Rules may be cited as the Asiatics (Marriage Registration) Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

"marriage" means any valid marriage contracted in Malawi otherwise than under the Marriage Act one or both of the parties to which is a non-Christian Asiatic; Cap. 25:01

"priest" means any person who is, by any law in force in Malawi or by any custom among persons professing the religion of either party to a marriage, empowered to perform a marriage as defined in these Rules;

"Registrar" means the Registrar of Marriages, who shall be the Registrar General.

3. Registration of all marriages

All marriages shall be registered in accordance with these Rules.

4. Printing of certificates

The Minister shall cause to be printed and delivered to the Registrar books of marriage certificates in duplicate in Form A in the First Schedule. Such books shall be supplied by the Registrar to such persons as the Minister may direct.

5. Certificate in duplicate

Immediately after the celebration of any marriage the priest shall fill up in duplicate a marriage certificate in Form A in the First Schedule. Such certificate shall contain the particulars set out in such form.

6. Signing of certificate

The certificate shall then be signed in duplicate by the priest, by the parties and by two or more witnesses to the marriage, and the priest shall deliver the original certificate to the Registrar, who shall file the same in his office. The priest shall retain the duplicate certificate and shall produce it to the Registrar on request.

7. Registration of certificate

(1) The Registrar shall, upon receipt of a certificate, forthwith register the same in a book, to be kept in his office for such purpose and to be called "The Asiatic Marriages Register", which book shall be in the form and contain the particulars set out in Form B in the First Schedule. Every such registration shall be dated on the day on which it is so registered and shall be signed by the Registrar.

(2) The Registrar shall at all reasonable times allow searches to be made in such book.

8. Correction of clerical errors

The Registrar may correct any clerical error in any certificate of marriage filed in his office upon production to him of such evidence as he may require.

9. Certificate is prima facie evidence of marriage

Every certificate of marriage filed in the office of the Registrar, or a copy thereof, in Form C in the First Schedule, purporting to be signed and certified as a true copy by the Registrar, and every entry in the Asiatic Marriages Register, or copy thereof certified as aforesaid, shall be admissible as prima facie evidence of the marriage to which it relates in any court or before any person who has authority, whether under any law in force in Malawi or by consent of the parties, to hear, receive and examine evidence.

10. Fees

The fees specified in the Second Schedule shall be paid to the Registrar for the several matters to which they are applicable and shall be paid by him into the Consolidated Fund.

11. Waiver of fees

The Registrar may, when satisfied of the poverty of the parties to a marriage, reduce or waive such fees or order their refund.

12. Fees payable to priest

Nothing in these Rules shall preclude a priest from receiving the fees ordinarily payable to him under any law in force in Malawi or in accordance with any customs of his religion.

FIRST SCHEDULE rr. 4, 5, 7 and 9

MALAWI

Form A (Rule 4)

THE ASIATICS (MARRIAGE, DIVORCE AND SUCCESSION) ACT (CAP. 25:03)

Marriage celebrated in the ..... at ..... in Malawi

CERTIFICATE OF MARRIAGE

Date .....19.....

No.	When Married	Name and Surnames	Full age or minor	Condition	Rank or Profession	Residence at time of Marriage	Father's name and Surname	Rank or Profession of Father
Husband		....	....	....	....	....	....	....
Wife	....	....	....	....	....	....	....	
Witness	....	....	....	....	....	....	....	
Witness	....	....	....	....	....	....	....	

Married at ..... by (or before) me,..... (Signature of Priest)

This Marriage was celebrated between us Signature of Husband.....

in the presence of us Signature of First Witness .....

Signature of Wife ..... Signature of Second Witness .....

(DUPLICATE)
THE ASIATICS (MARRIAGE, DIVORCE AND SUCCESSION) ACT (CAP. 25:03)
Marriage celebrated in the ..... at ..... in Malawi.
CERTIFICATE OF MARRIAGE
Date .....19.....

No. When Married Name and Surnames Full age or minor Condition Rank or Profession Residence at time of Marriage Father's name and Surname Rank or Profession of Father

Husband ....
Wife ....
Witness ....
Witness ....

Married at ..... by (or before) me,..... (Signature of Priest)

This Marriage was celebrated between us Signature of Husband.....
in the presence of us Signature of First Witness .....
Signature of Wife ..... Signature of Second Witness .....

MALAWI
Form B (Rule 7)
THE ASIATICS (MARRIAGE, DIVORCE AND SUCCESSION) ACT (CAP. 25:03)
Marriage celebrated in the ..... at ..... in Malawi.
THE ASIATIC MARRIAGES REGISTER
Date .....19.....

No. When Married Name and Surnames Full age or minor Condition Rank or Profession Residence at time of Marriage Father's name and Surname Rank or Profession of Father

Husband ....
Wife ....
Witness ....
Witness ....

Married at..... by me,..... Priest

This Marriage was celebrated between us ..... in the presence of us ..... Witnesses
....

I,.....,Registrar of Marriages under the above Act, do hereby certify that this is a true copy of the certificate of the Marriage of ..... and ..... No. ..... according to the return in my custody. Witness my hand and seal this ..... day of .....19.....
.....
Registrar General
MALAWI

Form C (Rule 9)

THE ASIATICS (MARRIAGE, DIVORCE AND SUCCESSION) ACT (CAP. 25:03)

Marriage celebrated in the ..... at ..... in Malawi.

CERTIFICATE OF MARRIAGE

Date .....19.....

No.	When Married	Name and Surnames	Full age or minor	Condition	Rank or Profession	Residence at time of Marriage	Father's name and Surname	Rank or Profession of Father
Husband	....	....	....	....	....	....	....	....
Wife	....	....	....	....	....	....	....	
Witness	....	....	....	....	....	....	....	
Witness	....	....	....	....	....	....	....	

Married at ..... by me,..... Priest

This Marriage was celebrated between us ..... in the presence of us ..... Witnesses
....

I,.....,Registrar of Marriages under the above Act, do hereby certify that this is a true copy of the certificate of the Marriage of ..... and ..... No. ..... according to the return in my custody. Witness my hand and seal this ..... day of .....19.....
.....
Registrar General

SECOND SCHEDULE r. 10, G.N. 19/1997, 23/2005

	K	t
On issue of each certificate from the Asiatic Marriages Register or certified copy thereof	100	00
Certifying any extract	50	00
For each search of the Asiatic Marriages Register	50	00