Customary Marriage (Registration) Act 1973

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CHAPTER 248

THE CUSTOMARY MARRIAGE (REGISTRATION) ACT.

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CHAPTER 248

THE CUSTOMARY MARRIAGE (REGISTRATION) ACT.

Commencement: 1 October, 1973.

An Act to make provision for the registration of customary marriages and for other purposes connected therewith.

Part I—Interpretation.

1. Interpretation.

In this Act, unless the context otherwise requires—

1. "certificate" means a customary marriage certificate;

2. "customary marriage" means a marriage celebrated according to the rites of an African community and one of the parties to which is a member of that community, or any marriage celebrated under Part III of this Act;

3. "date of marriage" means the date of the registration of the marriage;

4. "guardian" includes a parent or any person in *loco parentis*;

5. "Minister" means the Minister to whom functions under this Act are assigned;

6. "monogamous marriage" means a marriage between a man and a woman by which neither of them during the subsistence of the marriage shall be at liberty to contract any other form of marriage with any other person;

7. "monthly returns" means the returns made by registrars to the Registrar General under section 15;

(h) "prescribed" means prescribed by the Minister by statutory order;

(i) "register" means any register kept under this Act;

(j) "registrar" has the meaning assigned to it by section 3 and

includes a deputy registrar; (k) “Registrar General” means a public officer appointed under

section 1 of the Marriage Act to act as Registrar General of

Marriages.

Part II—Marriage districts and registrars.

2. Marriage districts.

1. Every subcounty, the city of Kampala, the municipalities of Jinja, Masaka and Mbale and every township specified in the First Schedule to this Act shall be a marriage district for the purpose of the registration of customary marriages under this Act.

2. The Minister may, by statutory order—

1. alter, amalgamate or subdivide the marriage districts as he or she may think fit;

2. amend the First Schedule to this Act.

3. Appointment of registrars.

All subcounty chiefs and the town clerks of the city of Kampala, the municipalities of Jinja, Masaka and Mbale and of the townships specified in the First Schedule to this Act shall be registrars for their respective marriage districts.

Registration of customary marriages.

4. Celebration of customary marriages.

1. Customary marriages may be celebrated in any part of Uganda.

2. Customary marriages may be polygamous.

5. Customary marriage register book.

Every registrar of a marriage district shall cause to be kept in his or her office a “customary marriage register book” in the prescribed form.

6. Registration of customary marriages.

(1) The parties to a customary marriage shall, as soon as may be, but in any event not later than six months after the date of completion of the ceremonies of marriage, attend at the office of the registrar of the marriage district in which the customary

marriage took place, with at least two witnesses to the marriage ceremonies, to register details of the marriage.

2. The parties shall register the marriage as " a customary marriage".

3. The registrar shall, upon payment of the prescribed fee, enter such details of the marriage as may be prescribed in the customary marriage register book and he or she, the parties to the marriage and the witnesses shall sign their names in the customary marriage register book.

4. The two witnesses to the registration of the marriage may be the parents, brothers, sisters, uncles or aunts of either of the parties, chiefs, clan heads or other persons of standing.

7. Customary marriage certificate.

At the time of registration of a customary marriage, the registrar shall, upon payment of the prescribed fee, issue the parties with a certificate in the prescribed form.

8. Registration of customary marriage out of time.

A registrar of a marriage district may register a customary marriage after the expiration of six months' period specified in section 6 on payment of such fee as may be prescribed.

9. Registration of marriage settlement.

1. At the time of registration of a customary marriage, the registrar shall, where applicable, record in the customary marriage register book details of any marriage settlement made in connection with that marriage.

2. A copy of such record certified by the Registrar General as being a true copy shall be admissible as evidence in any court proceedings and shall be prima facie evidence of the settlement.

10. Evidence of a certificate of customary marriage.

A certificate of a customary marriage issued under this Act or a certified copy of the certificate shall be conclusive evidence of the marriage for all purposes in any written law.

Validity of marriage.

11. Void marriages.

A customary marriage shall be void if—

1. the female party to it has not attained the age of sixteen years;

2. the male party to it has not attained the age of eighteen years;

3. one of the parties to it is of unsound mind;

4. the parties to it are within the prohibited degrees of kinship specified in the Second Schedule to this Act or the marriage is prohibited by the custom of one of the parties to the marriage; or

5. one of the parties has previously contracted a monogamous marriage which is still subsisting.

12. Customary marriage and monogamous or Muslim marriage.

1. Notwithstanding section 36 of the Marriage Act, where a person was married under the Marriage Act or under any other law relating to marriage and subsequently contracted a customary marriage during the subsistence of the previous monogamous marriage, but before the coming into force of this Act, the subsequent customary marriage shall be deemed to be a valid marriage.

2. Where a person contracted a customary marriage and subsequently contracted a monogamous marriage under any law or a Muslim marriage under the Marriage and Divorce of Mohammedans Act or any other law, the previous marriage under customary law shall remain valid in spite of the subsequent marriage.

3. This section shall not apply to marriages celebrated after the coming into force of this Act.

13. Validity of customary marriage not affected by subsequent marriage.

Where a person contracts a customary marriage under this Act and subsequently contracts a monogamous or Muslim marriage with another person, the validity of the customary marriage shall not be affected by the monogamous or Muslim marriage, but the monogamous or Muslim marriage shall be void.

Registrar General's duties.

14. Registrar General's duties.

1. The Registrar General shall supply every registrar with all registers, records and forms as may be prescribed under this Act.

2. The Registrar General shall have custody of all monthly returns made by registrars and shall cause to be prepared from the monthly returns alphabetical indexes of the marriages registered.

15. Monthly returns.

Within ten days of the last day of each month, every registrar shall forward to the Registrar General a copy of all entries made by him or her during the preceding month in the customary marriage register book.

16. Searches.

All registers, monthly returns and indexes in the custody of the Registrar General and the registrars of marriage districts shall be open for inspection by members of the public during the prescribed hours and upon payment of the prescribed fee.

17. Certified copies.

1. The Registrar General and a registrar of a marriage district shall, upon payment of the prescribed fee, furnish a certified copy of any entry in a register or return in his or her custody or a certified copy of any extract from the entry.

2. The copy of any entry in any register or return or the copy of any extract from the entry, which is certified under the hand of the Registrar General to be a correct copy, shall be prima facie evidence in all court proceedings of the facts contained in the copy.

18. Correction of errors.

(1) The Registrar General, or any registrar when authorised by the Registrar General, may correct any error in any register, return, index or certificate.

(2) Any correction made under subsection (1) shall be done without erasure and shall be authenticated by the Registrar General.

Offences and penalties.

19. False statements for purposes required by this Act.

Any person who, for the purpose of doing anything required to be done under this Act, makes any document or utters any statement which is false in a material particular—

1. if he or she made the document or uttered the statement without having taken reasonable steps to ascertain the truth or falsity of the matter, commits an offence and is liable to imprisonment for a period not exceeding one year or to a fine not exceeding two thousand shillings or to both; or

2. if he or she made the document or uttered the statement knowing the matter to be false, commits an offence and is liable to imprisonment for a period not exceeding five years or to a fine not exceeding ten thousand shillings or to both.

20. Failure to register customary marriage.

The parties to a customary marriage who fail to register their marriage within the time specified in section 6 commit an offence and are liable to a fine not exceeding five hundred shillings.

Part III —Preliminaries to marriages of persons not belonging to any indigenous tribe of Uganda.

21. Notice of marriage.

Whenever, after the commencement of this Act, any persons who do not belong to any indigenous tribe of Uganda desire to contract a customary marriage, one of the parties to the intended customary marriage shall sign and give to the registrar of the district in which the customary marriage is intended to take place a notice in the prescribed form.

22. Signature of notice by person unable to write or to understand

English.

If the person giving such notice is unable to write or is insufficiently acquainted with the English language, or both, then it shall be sufficient if he or she places his or her mark or cross to the notice in the presence of some literate person who shall attest to it, which attestation shall be in the prescribed form.

23. Registrars to supply forms of notice.

Every registrar shall supply forms of notice on payment of the prescribed fee to any persons applying for them.

24. Notice to be entered in customary marriage notice book and published.

1. Upon receipt of such notice the registrar shall cause it to be entered in a book to be called the “customary marriage notice book” which may be inspected during office hours without fee.

2. The registrar shall also publish the notice by causing a copy of it to be affixed on the outer door of his or her office and to be kept exposed there until he or she grants his or her certificate as provided in section 25, or until three months have elapsed.

25. Registrar to issue certificate on proof of conditions by affidavit.

(1) The registrar, at any time after the expiration of twenty-one days and before the expiration of three months from the date of the notice, upon payment of the prescribed fee, shall thereupon issue his or her certificate in the prescribed form; except that he or she shall not issue the certificate until he or she has been satisfied by affidavit—

1. that one of the parties has been resident within the district in which the marriage is intended to be celebrated at least fifteen days preceding the granting of the certificate;

2. that each of the parties to the intended marriage (not being a widower or widow) has attained the age of twenty-one or that, if he or she is under that age, the consent hereafter made requisite has been obtained in writing and is annexed to the affidavit;

3. that the parties to the intended marriage are not within the

prohibited degrees of kinship specified in the Second Schedule to this Act.

2. Such affidavit may be sworn before the registrar or before a magistrate.

3. The registrar or magistrate taking the affidavit shall explain to the person making it what are the prohibited degrees of kindred and affinity and the penalties which may be incurred under other provisions of this Act.

26. Minister's power to grant licence to marry.

The Minister, upon proof being given to him or her by affidavit that there is no lawful impediment to the proposed marriage, and that the necessary consent, if any, to the marriage has been obtained, may, if he or she shall think fit, dispense with the giving of notice, and with the issue of the certificate of the registrar, and may grant his or her licence, which shall be in the prescribed form authorising the celebration of a marriage between the parties named in the licence by a registrar.

27. Caveat may be entered against issue of certificate.

Any person whose consent to a marriage is required, or who may know of any just cause why the customary marriage should not take place, may enter a caveat against the issue of the registrar's certificate, by writing at any time before the issue of the certificate the word "Forbidden" opposite to the entry of the notice in the customary marriage notice book, and appending to it his or her name and place of abode, and the grounds upon or by reason of which he or she claims to forbid the issue of the certificate, and the registrar shall not issue his or her certificate until the caveat shall be removed as hereafter provided.

28. Objections by persons outside Uganda.

Where a person, such as referred to in section 27 resides outside Uganda, an objection signed in accordance with the laws of his or her country of residence relating to the attestation of documents and duly authenticated by a notary public consul or other person authorised by the laws of that country in that behalf shall be sufficient evidence of objection to the celebration of that marriage.

29. When caveat entered, question to be referred to court.

1. Wherever an objection is made to or a caveat is entered against the issue of a certificate, the registrar shall refer the matter to the chief magistrate, and that court shall thereupon summon the parties to the intended marriage and the person by whom the caveat is entered, and shall require the person by whom the caveat is entered to show cause why the registrar should not issue his or her certificate, and shall hear and determine the case in a summary way; and the decision of the High Court shall be final.

2. Where a person who made the objection under section 28 resides outside Uganda, the procedure set out in the Civil Procedure Rules of issuing commissions in respect of persons resident beyond the local jurisdiction of the court shall apply.

30. Removal of caveat.

1. If the chief magistrate decides that the certificate ought to be issued, the judge shall remove the caveat by cancelling the word “Forbidden” in the customary marriage notice book in ink, and writing in the customary marriage notice book, immediately below the entry and cancellation, the words “Cancelled by order of the High Court” and signing his or her name to that writing.

2. The registrar shall then issue his or her certificate, and the marriage may proceed as if the caveat had not been entered; but the time that has elapsed between the entering and the removal of the caveat shall not be computed in the period of three months specified in section 25.

31. Compensation and costs.

The chief magistrate may award compensation and costs to the party injured, if it appears that a caveat was entered on insufficient grounds.

Consent to marriage in certain cases necessary.

32. Consent to marriage of minors.

If either party to an intended customary marriage, not being a widower or widow, is under twenty-one years of age, the written consent of the father, or if he is dead or of unsound mind, of the mother, or if both are dead or of

unsound mind, of the guardian of the party, must be produced annexed to the affidavit as aforesaid before a licence can be granted or a certificate issued.

33. Signature of consent by person unable to write or to understand English.

1. If the person required to sign the consent is unable to write, or is insufficiently acquainted with the English language, or both, then he or she shall sign the consent by placing his or her mark or cross to it in the presence of one of the following persons: any magistrate, justice of the peace, district commissioner, registrar of the High Court, registrar of marriages, registrar of deeds, medical officer in the service of the Government, county chief, subcounty chief or any other person as the Minister may, by statutory instrument, appoint.

2. Such signature shall be attested by such persons in a prescribed form.

34. Consent may be obtained from outside Uganda.

Where the person required to sign the consent resides outside Uganda, a consent signed in accordance with the laws of that country of residence relating to the attestation of documents and duly authenticated by a notary public consul or other person authorised by the laws of that country in that behalf shall be sufficient authority for the celebration of that marriage.

35. Nonapplicability of provisions.

This Part of this Act shall not apply to people who belong to any indigenous tribe of Uganda.

Part IV—Miscellaneous.

36. Regulations.

The Minister may make regulations for all or any of the following—

1. prescribing the forms to be used and the particulars to be given under this Act;

2. the fees to be paid under this Act;

3. details of the marriage to be given to the registrar and the Registrar General;

4. providing for the manner in which any documents shall be signed;

5. prescribing registers, records and indexes to be kept under this Act and providing for inspection of them and the making of returns under this Act;

6. providing for the provision of certified copies of records or extracts of records kept under this Act;

7. prescribing the hours during which customary marriages may be registered and all names and particulars given;

(h) generally prescribing anything required to be prescribed under this Act.

37. Registration of customary marriages celebrated before commencement of this Act.

1. The parties to a customary marriage which was celebrated before the commencement of this Act shall register the marriage within five years from the commencement of this Act in such a manner as the Minister may, by statutory order, provide.

2. An order, under subsection (1), may provide for a registration fee not exceeding five hundred shillings for registering a marriage after the expiration of five years.

3. This section shall not apply to a customary marriage which was celebrated and registered before the commencement of this act at a gombolola headquarters or its equivalent.

38. Customary marriages registered at gombolola headquarters.

1. Any customary marriage registered at a gombolola headquarters or its equivalent prior to the commencement of this Act shall be deemed to have been registered as a customary marriage under this Act.

2. All registers and records relating to the customary marriages of any persons which were kept by local administrations at gombolola headquarters or their equivalents prior to the commencement of this Act shall be deemed to be registers and records kept under this Act and shall be kept in the custody of the registrars of the marriage districts in which the gombolola headquarters or their equivalents are situate.

SCHEDULES

First Schedule.

s. 2.

Marriage districts for the registration of customary marriages.

Arua Masindi

Entebbe Mbarara

Fort Portal Moroto

Gulu Moyo

Hoima Njeru

Kabale Soroti

Kitgum Tororo
Lira

Second Schedule.

s.11.

Prohibited degrees of kinship.

Mother	Father
Mother’s daughter	Father’s son
Daughter	Son
Father’s mother	Father’s father
Mother’s mother	Mother’s father
Son’s daughter	Son’s son
Daughter’s daughter	Daughter’s son
Sister	Brother
Wife’s mother	Husband’s fath

Wife’s daughter	Husband’s son
Father’s sister	Father’s brothe
Mother’s sister	Mother’s brothe
Brother’s daughter	Brother’s son
Sister’s daughter	Sister’s son
Father’s brother’s daughter	Father’s brothe
Mother’s sister’s daughter	Mother’s sister’
Son’s wife	Daughter’s hus
Father’s wife	Mother’s husba

History: Decree 16/1973; S.I. 110/1973; Decree 2/1974; Statute 4A/1990, s. 27.

Cross References

Civil Procedure Rules.

Marriage Act, Cap. 251.

Marriage and Divorce of Mohammedans Act, Cap. 252.