

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 1551. 18 September 1970.

No. 1551. 18th September, 1970.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 51 van 1970: Wysigingswet op Huwelike, 1970.

No. 51 of 1970: Marriage Amendment Act, 1970.

## MARRIAGE AMENDMENT ACT, 1970.

Act No. 51, 1970

**ACT**

To amend the Marriage Act, 1961, so as to assign the administration of the provisions thereof in respect of any Bantu in the Republic and any member of any of the native nations in the territory of South-West Africa to the Minister of Bantu Administration and Development, and to provide that the administration of certain other laws may be assigned to the said Minister in respect of any Bantu; to abolish banns of marriage, notices of intention to marry and special marriage licences; to enable girls of the age of fifteen years to marry without the permission of the Minister; to apply the said Act to the territory of South-West Africa, including the Eastern Caprivi Zipfel; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 11th September, 1970.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Marriage Act, 1961 (hereinafter referred to as the principal Act), is hereby amended—

Amendment of  
section 1 of  
Act 25 of 1961.

- (a) by the substitution for the definition of "Bantu Affairs Commissioner" of the following definition:  
"Bantu Affairs Commissioner" includes an Additional Bantu Affairs Commissioner, an Assistant Bantu Affairs Commissioner, a Native Commissioner, an Additional Native Commissioner and an Assistant Native Commissioner;";
- (b) by the substitution for the definition of "Minister" of the following definition:  
"Minister" means the Minister of the Interior or, in relation to any person who is a Bantu as defined in the Population Registration Act, 1950 (Act No. 30 of 1950), or is a native (excluding a Nama) as defined in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of South-West Africa, the Minister of Bantu Administration and Development;"; and
- (c) by the substitution for the definition of "prior law" of the following definition:  
"prior law" means any law repealed by this Act or the Marriage Amendment Act, 1970, or any provision of any law declared by proclamation under section 39 (5) no longer to apply."

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2. Section 2 of the principal Act is hereby amended by the substitution in subsection (2) for the word "race" of the words "population group". Amendment of section 2 of Act 25 of 1961.
3. Section 3 of the principal Act is hereby amended by the substitution in subsection (2) (c) for the word "race" of the words "population group". Amendment of section 3 of Act 25 of 1961.
4. Section 5 of the principal Act is hereby amended— Amendment of section 5 of Act 25 of 1961.
- (a) by the substitution for subsection (1) of the following subsection:  
 "(1) Subject to the provisions of subsection (3), any person who, at the commencement of this Act, or of the Marriage Amendment Act, 1970, is under the provisions of any prior law authorized to solemnize any marriages, shall continue to have authority to solemnize such marriages as if such law had not been repealed, but shall exercise such authority in accordance with the provisions of this Act."; and
- (b) by the addition of the following subsection:  
 "(3) Any such person whose authority to solemnize any marriages in the Republic is at the commencement of the Marriage Amendment Act, 1970, not limited to a specified area, shall be deemed to have been designated as a marriage officer for solemnizing marriages in the territory of South-West Africa also, and any such person whose authority to solemnize any marriages in the said territory is at such commencement not limited to a specified area, shall be deemed to have been designated as a marriage officer for solemnizing marriages in the Republic also."
5. The following section is hereby substituted for section 12 of the principal Act: Substitution of section 12 of Act 25 of 1961, as amended by section 1 of Act 11 of 1964.
- "Prohibition of solemnization of marriage without production of identity document or prescribed declaration.**
12. No marriage officer shall solemnize any marriage unless—
- (a) each of the parties in question produces to the marriage officer his or her identity document issued under the provisions of the Population Registration Act, 1950 (Act No. 30 of 1950), or the Identity Documents in South-West Africa Act, 1970; or
- (b) each of such parties furnishes to the marriage officer the prescribed affidavit; or
- (c) one of such parties produces his or her identity document referred to in paragraph (a) to the marriage officer and the other furnishes to the marriage officer the affidavit referred to in paragraph (b)."
6. Sections 13 to 21, inclusive, of the principal Act are hereby repealed. Repeal of sections 13 to 21, inclusive, of Act 25 of 1961.
7. Section 22 of the principal Act is hereby amended by the deletion of the words "or the applicable provisions of any law of the territory of South-West Africa relating to the issue of special marriage licences,". Amendment of section 22 of Act 25 of 1961, as substituted by section 3 of Act 19 of 1968.
8. The following section is hereby substituted for section 23 of the principal Act: Substitution of section 23 of Act 25 of 1961.
- "Objections to marriage.**
23. (1) Any person desiring to raise any objection to any proposed marriage shall lodge such objection in writing with the marriage officer who is to solemnize such marriage.
- (2) Upon receipt of any such objection the marriage officer concerned shall inquire into the

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grounds of the objection and if he is satisfied that there is no lawful impediment to the proposed marriage, he may solemnize the marriage in accordance with the provisions of this Act.

(3) If he is not so satisfied he shall refuse to solemnize the marriage."

9. Section 26 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 26 of Act 25 of 1961.

"(1) No boy under the age of eighteen years and no girl under the age of fifteen years shall be capable of contracting a valid marriage except with the written permission of the Minister, which he may grant in any particular case in which he considers such marriage desirable: Provided that such permission shall not relieve the parties to the proposed marriage from the obligation to comply with all other requirements prescribed by law: Provided further that such permission shall not be necessary if by reason of any such other requirement the consent of a judge or court having jurisdiction in the matter is necessary and has been granted."

10. The following section is hereby substituted for section 30 of the principal Act: Substitution of section 30 of Act 25 of 1961.

"Marriage formula.

30. (1) In solemnizing any marriage the marriage officer shall put the following questions to each of the parties separately, each of whom shall reply thereto in the affirmative:

"Do you, A.B., declare that as far as you know there is no lawful impediment to your proposed marriage with C.D. here present, and that you call all here present to witness that you take C.D. as your lawful wife (or husband)?"

and thereupon the parties shall give each other the right hand and the said marriage officer shall declare the marriage solemnized in the following words:

"I declare that A.B. and C.D. here present have been lawfully married."

(2) Subject to the provisions of subsection (1), a marriage officer, if he is a minister of religion or a person holding a responsible position in a religious denomination or organization, may in solemnizing a marriage follow the rites usually observed by his religious denomination or organization."

11. (1) Section 38 of the principal Act is hereby amended— Amendment of section 38 of Act 25 of 1961.

(a) by the substitution in subsection (1) for the word "Governor-General" of the word "Minister"; and

(b) by the addition of the following subsection:

"(3) Different and separate regulations may be made under subsection (1) in respect of different areas or in respect of persons belonging to different population groups, and regulations made under subsection (1) (b) shall be made in consultation with the Minister of Finance."

(2) Regulations made under section 38 of the principal Act and in force at the commencement of the Marriage Amendment Act, 1970, shall be deemed to have been made under the said section, as amended by this section, and shall remain in force until amended or repealed by the competent authority.

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12. The following section is hereby inserted in the principal Act after section 38:

"Adminis-  
tration of  
certain  
other laws  
in respect  
of any  
Bantu.

38A. (1) The State President may by proclamation in the *Gazette* assign the administration of any other law relating to marriages, to the Minister of Bantu Administration and Development, in respect of any Bantu.

(2) The State President may from time to time by like proclamation revoke or amend any such proclamation."

Insertion of section  
38A in Act 25 of  
1961.

13. The following section is hereby inserted in the principal Act after section 39:

"Applica-  
tion of  
Act to the  
territory  
of South-  
West  
Africa, and  
repeal of  
laws of that  
territory.

39A. (1) This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

(2) A reference in this Act to 'Union' or 'province of the Union' shall be deemed to include a reference to the territory of South-West Africa.

(3) The Marriage Ordinance, 1963 (Ordinance No. 33 of 1963), sections 16 and 17 of the General Law Amendment Ordinance, 1965 (Ordinance No. 36 of 1965), and the Marriage Amendment Ordinance, 1967 (Ordinance No. 18 of 1967), of the territory of South-West Africa are hereby repealed.

(4) Anything done under any provision of a law repealed by subsection (3) shall be deemed to have been done under the corresponding provision of this Act (if any).

(5) Any marriage which is validated by or is valid in terms of any law repealed by subsection (3) shall not be affected by such repeal."

Insertion of  
section 39A in  
Act 25 of 1961.

14. This Act shall be called the Marriage Amendment Act, 1970, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Short title and  
commencement.