



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Prys 10c Price
Oorsee 15c Overseas
POSVRY—POST FREE

Vol. 63.]

KAAPSTAD, 18 SEPTEMBER 1970.
CAPE TOWN, 18TH SEPTEMBER, 1970.

[No. 2822.]

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1551. 18 September 1970.

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

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

DEPARTMENT OF THE PRIME MINISTER.

No. 1551. 18th September, 1970.

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

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

WET

Tot wysiging van die Huwelikswet, 1961, om die uitvoering van die bepalings daarvan ten opsigte van 'n Bantoe in die Republiek en 'n lid van die een of ander van die naturelle volke in die gebied Suidwes-Afrika aan die Minister van Bantoe-administrasie en -ontwikkeling op te dra, en om daarvoor voorsiening te maak dat die uitvoering van sekere ander wette ten opsigte van 'n Bantoe aan genoemde Minister opgedra kan word; om huweliksgebooe, kennisgewings van voorneme om te trou en spesiale huwelikslisensies af te skaf; om dit moontlik te maak vir meisies van die ouderdom van vyftien jaar om sonder verlof van die Minister te trou; om genoemde Wet op die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel, toe te pas; en om vir daarmee in verband staande aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 11 September 1970.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 1 van
Wet 25 van 1961.

1. Artikel 1 van die Huwelikswet, 1961 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van „Bantoesakekommissaris” deur die volgende omskrywing te vervang:
„Bantoesakekommissaris” ook 'n addisionele Bantoesakekommissaris, 'n assistent Bantoesakekommissaris, 'n Naturellekommissaris, 'n addisionele Naturellekommissaris en 'n assistent Naturellekommissaris;”;
- (b) deur die omskrywing van „Minister” deur die volgende omskrywing te vervang:
„Minister” die Minister van Binnelandse Sake of, met betrekking tot 'n persoon wat 'n Bantoe is soos omskryf in die Bevolkingsregistrasiewet, 1950 (Wet No. 30 van 1950), of wat 'n naturel uitgesonderd 'n Nama) is soos omskryf in artikel 25 van die Naturelle-administrasie Proklamasie, 1928 (Proklamasie No. 15 van 1928), van Suidwes-Afrika, die Minister van Bantoe-administrasie en -ontwikkeling;”;
- (c) deur die omskrywing van „vorige wet” deur die volgende omskrywing te vervang:
„vorige wet” 'n wet by hierdie Wet of die Wysigingswet op Huwelike, 1970, herroep, of 'n bepaling van 'n wet wat by proklamasie kragtens artikel 39 (5) verklaar is nie langer van toepassing te wees nie.”.

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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Wysiging van artikel 2 van Wet 25 van 1961.

2. Artikel 2 van die Hoofwet word hierby gewysig deur in subartikel (2) die woord „ras” deur die woord „bevolkingsgroep” te vervang.

Wysiging van artikel 3 van Wet 25 van 1961.

3. Artikel 3 van die Hoofwet word hierby gewysig deur in subartikel (2) (c) die woord „ras” deur die woord „bevolkingsgroep” te vervang.

Wysiging van artikel 5 van Wet 25 van 1961.

4. Artikel 5 van die Hoofwet word hierby gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Behoudens die bepalings van subartikel (3), behou iemand wat by die inwerkingtreding van hierdie Wet of van die Wysigingswet op Huwelike, 1970, kragtens die bepalings van ’n vorige wet gemagtig is om enige huwelike te voltrek, die bevoegdheid om sodanige huwelike te voltrek asof die vorige wet nie herroep is nie, maar moet dié bevoegdheid ooreenkomstig die bepalings van hierdie Wet uitoefen.”; en

(b) deur die volgende subartikel by te voeg:

„(3) So iemand wie se magtiging om enige huwelike in die Republiek te voltrek, by die inwerkingtreding van die Wysigingswet op Huwelike, 1970, nie tot ’n bepaalde gebied beperk is nie, word geag om ook as huweliksbevestiger vir die voltrekking van huwelike in die gebied Suidwes-Afrika benoem te gewees het, en so iemand wie se magtiging om enige huwelike in genoemde gebied te voltrek, by bedoelde inwerkingtreding nie tot ’n bepaalde gebied beperk is nie, word geag om ook as huweliksbevestiger vir die voltrekking van huwelike in die Republiek benoem te gewees het.”.

Vervanging van artikel 12 van Wet 25 van 1961, soos gewysig deur artikel 1 van Wet 11 van 1964.

5. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

12. Geen huweliksbevestiger mag ’n huwelik voltrek nie tensy—

(a) elkeen van die betrokke partye sy of haar identiteitsdokument uitgereik kragtens die bepalings van die Bevolkingsregistrasiewet, 1950 (Wet No. 30 van 1950), of die Wet op Identiteitsdokumente in Suidwes-Afrika, 1970, aan die huweliksbevestiger voorlê; of

(b) elkeen van dié partye die voorgeskrewe beëdigde verklaring aan die huweliksbevestiger verstrek; of

(c) een van dié partye sy of haar identiteitsdokument soos bedoel in paragraaf (a) aan die huweliksbevestiger voorlê en die ander ’n beëdigde verklaring soos bedoel in paragraaf (b) aan die huweliksbevestiger verstrek.”.

Herroeping van artikels 13 tot en met 21 van Wet 25 van 1961.

6. Artikels 13 tot en met 21 van die Hoofwet word hierby herroep.

Wysiging van artikel 22 van Wet 25 van 1961, soos vervang deur artikel 3 van Wet 19 van 1968.

7. Artikel 22 van die Hoofwet word hierby gewysig deur die woorde „of die toepaslike bepalings van ’n wet van die gebied Suidwes-Afrika met betrekking tot die uitreiking van spesiale huwelikslisensies” te skrap.

Vervanging van artikel 23 van Wet 25 van 1961.

8. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

23. (1) Iemand wat verlang om beswaar teen ’n voorgenome huwelik te maak, moet die beswaar skriftelik indien by die huweliksbevestiger wat dié huwelik gaan voltrek.

(2) By ontvangs van so ’n beswaar moet die betrokke huweliksbevestiger ondersoek instel na die

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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—
(a) by the substitution for subsection (1) of the following subsection:

Amendment of section 5 of Act 25 of 1961.

"(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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gronde van die beswaar, en indien hy oortuig is dat daar regtens geen beletsel teen die voorgenome huwelik is nie, kan hy die huwelik ooreenkomstig die bepalings van hierdie Wet voltrek.

(3) Indien hy nie aldus oortuig is nie, moet hy weier om die huwelik te voltrek.”.

Wysiging van artikel 26 van Wet 25 van 1961.

9. Artikel 26 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Geen seun benede die ouderdom van agtien jaar en geen meisie benede die ouderdom van vyftien jaar is bevoeg om 'n geldige huwelik aan te gaan nie, behalwe met die skriftelike verlof van die Minister, wat hy kan verleen in 'n bepaalde geval waar hy so 'n huwelik as wenslik beskou: Met dien verstande dat sodanige verlof die partye by die voorgenome huwelik nie vrystel nie van die verpligting om aan alle ander regsvoorskrifte te voldoen: Met dien verstande verder dat sodanige verlof nie nodig is nie indien weens 'n sodanige ander voorskrif die toestemming van 'n regter of hof met regsbevoegdheid ten opsigte van die aangeleentheid nodig is en verleen is.”.

Vervanging van artikel 30 van Wet 25 van 1961.

10. Artikel 30 van die Hoofwet word hierby deur die volgende artikel vervang:

„Huweliks-formulier. 30. (1) By die voltrekking van 'n huwelik moet die huweliksbevestiger aan elkeen van die partye die volgende vrae afsonderlik stel, waarop elkeen van hulle bevestigend moet antwoord:

„Verklaar jy, A.B., dat sover jy weet daar regtens geen beletsel is nie teen jou voorgenome huwelik met C.D. hier teenwoordig, en dat jy almal hier teenwoordig roep om getuie te wees dat jy C.D. tot jou wettige vrou (of man) neem?”.

en daarop moet die partye mekaar die regterhand gee, en genoemde huweliksbevestiger moet die huwelik met die volgende woorde as voltrek verklaar:

„Ek verklaar dat A.B. en C.D. hier teenwoordig regtens getroud is.’.

(2) Behoudens die bepalings van subartikel (1), kan 'n huweliksbevestiger, indien hy 'n leraar is of iemand wat 'n verantwoordelike posisie in 'n godsdienstige denominasie of organisasie beklee, by die voltrekking van 'n huwelik die gebruik volg wat gewoonlik nagekom word deur sy godsdienstige denominasie of organisasie.”.

Wysiging van artikel 38 van Wet 25 van 1961.

11. (1) Artikel 38 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woord „Goewerneur-generaal” deur die woord „Minister” te vervang; en

(b) deur die volgende subartikel by te voeg:

„(3) Verskillende en afsonderlike regulasies kan kragtens subartikel (1) ten opsigte van verskillende gebiede of ten opsigte van persone wat tot verskillende bevolkingsgroepe behoort, uitgevaardig word, en regulasies uitgevaardig kragtens subartikel (1) (b) word uitgevaardig in oorleg met die Minister van Finansies.”.

(2) Regulasies wat kragtens artikel 38 van die Hoofwet uitgevaardig en by die inwerkingtreding van die Wysigingswet op Huwelike, 1970, van krag is, word geag kragtens genoemde artikel, soos deur hierdie artikel gewysig, uitgevaardig te gewees het en bly van krag totdat hulle deur die bevoegde gesag gewysig of herroep word.

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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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Invoeging van artikel 38A in Wet 25 van 1961.

12. Die Hoofwet word hierby gewysig deur na artikel 38 die volgende artikel in te voeg:

„Uitvoering van sekere ander wette ten opsigte van 'n Bantoe. 38A. (1) Die Staatspresident kan by proklamasie in die *Staatskoerant* die uitvoering van die bepalings van enige ander wet met betrekking tot huwelike, ten opsigte van 'n Bantoe opdra aan die Minister van Bantoe-administrasie en -ontwikkeling.

(2) Die Staatspresident kan so 'n proklamasie van tyd tot tyd by dergelike proklamasie intrek of wysig.”.

Invoeging van artikel 39A in Wet 25 van 1961.

13. Die Hoofwet word hierby gewysig deur na artikel 39 die volgende artikel in te voeg:

„Toe-passing van Wet op die gebied Suidwes-Afrika, en herroeping van wette van daardie gebied. 39A. (1) Hierdie Wet en 'n wysiging daarvan is ook in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing.

(2) 'n Verwysing in hierdie Wet na 'Unie' of 'provinsie van die Unie' word geag 'n verwysing na die gebied Suidwes-Afrika in te sluit.

(3) Die Huweliksordonnansie, 1963 (Ordonnansie No. 33 van 1963), artikels 16 en 17 van die Algemene Regswysigingsordonnansie, 1965 (Ordonnansie No. 36 van 1965), en die Huwelikswysigingsordonnansie, 1967 (Ordonnansie No. 18 van 1967), van die gebied Suidwes-Afrika, word hierby herroep.

(4) Enigiets gedoen kragtens 'n bepaling van 'n wet by subartikel (3) herroep, word geag kragtens die ooreenstemmende bepaling van hierdie Wet (indien daar is) gedoen te gewees het.

(5) 'n Huwelik wat geldig verklaar is deur of geldig is ingevolge 'n wet by subartikel (3) herroep, word nie deur sodanige herroeping, geraak nie.”.

Kort titel en inwerkingtreding.

14. Hierdie Wet heet die Wysigingswet op Huwelike, 1970, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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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 proclama-
tion 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 pro-
clamation."

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 Ordi-
nance, 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.

