

**ASHLEY SLAMAT**  
— ATTORNEYS AT LAW —  
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**The Marriage Act 25 of 1961**

The Act provides for the consolidation and amendment of the laws relating to the solemnization of marriage and matters incidental thereto.

Section 1 Definitions –

**“marriage officer”** – any person who is a marriage officer by virtue of the provisions of this Act.

Section 2 - 8 sets out who are marriage officers –

- i. Every Magistrate,
- ii. Every special Justice of the peace,
- iii. Every Commissioner by virtue of his office,
- iv. The Minister and any officer in the public service authorized thereto by him may designate any officer/employee in the public, diplomatic or consular service of the Republic,
- v. The Minister and any officer in the public service authorised thereto by him may designate any minister of any religion of, or any person holding a responsible position in, any religious denomination/organization for as long as he is such a minister or occupy this position

The above persons will be a marriage officer for the purpose of solemnizing marriages according to Christian, Jewish or Mohammedan rites of any Indian religion.

The change of the name of a religious domination or organization will not have an effect on the designation of any person as marriage officer. (Section 8) The Minister can revoke in writing the designation of any person/group of persons as marriage officer. (Section 9)

Section 10 sets out that when any marriage officer is authorized to solemnized a marriage under this Act in any country outside the Union, may only solemnize such marriages if both the parties are South African citizens domiciled in the Union.

Section 11: Offences under this Act

- i. A person who solemnize a marriage who is not a marriage officer or not authorised under the Act,
- ii. A person who solemnize a marriage which he knows is prohibited under the Act or
- iii. A marriage officer who solemnizes a marriages knowingly in contravention of this Act. (Section 35)

A marriage may not be solemnized unless both parties produce their identity documents or prescribed Affidavit. (Section 12)

Section 23: Objections to the marriage should be done in writing.

- A marriage may not be solemnized between minors, unless the prescribed consent which is legally required has been obtained. (Section 24)
- Notwithstanding this fact, such a marriage will not be void merely because the parents/guardians/commissioner whose permission was needed, was not granted. (Section 24A)
- The marriage shall be dissolved by a competent court, on application by the parent/guardian, before the minor reach majority or within 6 weeks of getting to know about the marriage, or by the minor.
- A commissioner of child welfare may give written consent to minors to marry, if the consent from their parents and/or guardians could not be obtained because they have no parents or guardian and/or their consent could not be obtained because of good reasons. (Section 25) The commissioner can also enter the parties into an Antenuptial contract if it is in the best interests of the parties.

Section 26: Provisions under which marriage is prohibited –

- No boy under the age of 18 years and no girl under the age of 15 years can be legally married, unless they have the consent of the Minister or any other officer in the public service authorized thereto by him.
- This will not be necessary if consent is given by a judge or court having jurisdiction in the matter.
- The Minister can also consider above marriages which may not have been contracted and declare it valid.

Section 27 states that a marriage officer may require proof of the fact that the parties is not minors or that they have the required permission from their parents/guardians to marry.

Section 28 list the persons related to a deceased/divorced spouse to whom a person may be married –

- i. A widower may marry any female relative of his deceased/divorced wife or
- ii. A widow may marry any male relative of his deceased/divorced husband.

Section 29: Time and place aspects of any marriage being Solemnize:

- A marriage may be solemnized at any time and during any day of the week, but a marriage officer shall not be obliged to solemnize the marriage other time than between 08:00 and 16:00.

- A marriage may be solemnized in a church, other building used for religious purposes, public office/private dwelling house with open doors and in the presence of the parties themselves and at least two competent witnesses.
- No person may contract a valid marriage by any other person acting as his representative.
- The marriage officer, the two parties as well as the two competent witnesses must sign the marriage register immediately after the marriage has been solemnized.

Section 30 describes the marriage formula to be used to solemnize the marriage by the marriage officer.

Section 32:

No marriage officer may receive or demand any fee, gift or reward for, or by reason of anything done by him as marriage officer in terms of this Act, unless it is prescribed or by the prescription of the previous Act.