

THE MARRIAGE (AMENDMENT) ACT, 1967

No. 49



of 1967

AN ACT TO AMEND THE MARRIAGE PROCLAMATION

Date of Assent: 25.10.67

Date of Commencement: 27.10.67

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Marriage (Amendment) Act, 1967.

Amendment of Section 2 of Cap. 144

2. Section 2 of the Marriage Proclamation (Cap. 144), (hereinafter called the principal law), is amended by the deletion of "Tswana law or custom" and by the substitution of "any customary law of Botswana".

Replacement of Section 6 of Cap. 144

3. Section 6 of the principal law is repealed and the following is substituted—

"Protection of Minors

6. (1) Unless the Minister in any case otherwise directs no banns shall be published under section 4 and no special licence shall be issued under section 5—

- (a) with respect to or for the marriage of any widower or widow having minor children of a former marriage, or any children, whether minor or otherwise, of a marriage under any system of customary law, unless such person

produces a certificate issued under section 56 of the Administration of Estates Proclamation (Cap. 83) or, in cases to which that section does not apply, a certificate signed by an administrative officer (other than a cadet) or by a magistrate to the effect that he is satisfied that the inheritances or other properties which have devolved upon such children have been adequately secured:

- (b) with respect to or for the marriage of any other person having minor children of a former marriage under any system of customary law, unless a certificate is produced signed by an administrative officer (other than a cadet) or by a magistrate to the effect that he is satisfied that adequate provision has been made to safeguard the maintenance of such children.

(2) Where a person desiring to marry is resident outside Botswana the certificate required under subsection (1) may be signed by the holder in that person's country of residence of an office which is deemed by the Minister to be equivalent to that of a District Commissioner or of a magistrate."

Amendment of Section 15 of Cap. 144

4. Section 15 of the principal law is amended by the deletion of subsection (2) of section 15 and by the substitution of —

"(2) An African may not contract a marriage under this Proclamation unless he or she produces to the marriage officer a declaration in the prescribed form to the following effect —

- (a) that he or she, as the case may be, has never married according to any customary law; or
- (b) that any previous union contracted in accordance with any customary law has been dissolved by death or annulled in accordance with the law, whether customary or otherwise, applicable in the circumstances of his or her case; and
- (c) if he or she has had any children by a customary previous marriage, the names, sex and ages of such children.

(3) Any person who makes a declaration in terms of subsection (2) which he knows to be false or does not believe to be true shall be deemed to be guilty of the crime of perjury."

Amendment of Section 19 of Cap. 144.

5. Section 19 of the principal law is amended —

- (a) in the side-note by the deletion of "natives" and by the substitution of "Africans";
- (b) by the deletion of "Tswana law and custom" and by the substitution of "customary law."

Addition of New Section 25 to Cap. 144

6. The principal law is amended by the addition of the following section —

“Regulations

25. The Minister may make regulations —

- (a) prescribing any form to be used for the purposes of this Proclamation including the form of any certificate or declaration;
- (b) generally for the better carrying out of the provisions of this Proclamation.”.

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,
Clerk of the National Assembly.