

Zambia

## Marriage Act, 1918

### Chapter 50

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## Zambia

# Marriage Act, 1918

## Chapter 50

Commenced on 1 October 1918

*[This is the version of this document as it was at 31 December 1996 to 25 December 2023.]*

**An Act to provide for the solemnisation of marriages; to provide for the validation of marriages already solemnised; and to provide for matters incidental to or connected with the foregoing.**

### Part I – General

#### 1. Short title

This Act may be cited as the Marriage Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**district**" means a marriage district constituted under section three;

"**licensed minister**" means any minister appointed under subsection (2) of section five to solemnise marriages in Zambia;

"**Registrar**" means a Registrar of Marriages appointed under section four and any person lawfully acting as such;

"**Registrar-General**" includes the Registrar-General of Marriages, the Deputy Registrar-General of Marriages and any person lawfully acting as the Registrar-General of Marriages or the Deputy Registrar-General of Marriages;

"**special licence**" means a special licence granted under section twelve.

*[As amended by No. 11 of 1937, No. 48 of 1953 and G.N. No. 316 of 1964]*

#### 3. Marriage districts

The Minister may, by statutory notice, divide Zambia into districts for the purposes of this Act and may, by like notice, from time to time alter such districts, either by change of boundaries or by union or subdivision of districts or by the formation of new districts.

*[As amended by G.N. No. 316 of 1964]*

#### 4. Appointment of Registrar-General and Registrars

The Minister may from time to time appoint a Registrar-General of Marriages for Zambia and Registrars of Marriages for any marriage district; and may also from time to time appoint a Deputy Registrar-General of Marriages, an Assistant Registrar-General of Marriages and Deputy Registrars of Marriages for any marriage district. The Assistant Registrar-General of Marriages and the Deputy Registrar of Marriages for any marriage district shall, in the absence or during the illness or incapacity of the Registrar-General or of the Registrar or Registrars of any marriage district respectively, have and exercise all the powers conferred by this Act upon the Registrar-General and the Registrars respectively.

*[No. 27 of 1930 as amended by No. 31 of 1941, No. 48 of 1953, G.N. No. 316 of 1964 and S.I. No. 72 of 1964]*

## 5. Licensing of places of public worship

- (1) The Minister may, by *Gazette* notice, license any place of public worship to be a place for the solemnisation of marriages and may at any time, by like notice, cancel such licence.
- (2) The Minister may, by *Gazette* notice, appoint any minister of any church or religious body to solemnise marriages in Zambia and may at any time, by like notice, cancel such appointment.

*[As amended by G.N. No. 316 of 1964]*

## Part II – Preliminaries to marriage

### 6. Notice of intended marriage

No marriage shall be solemnised unless notice of the intended marriage shall have been given in the prescribed form by one of the parties thereto to the Registrar of the district in which the marriage is intended to take place not less than twenty-one days before the date of solemnisation.

### 7. Signature of notice

If the person giving such notice is unable to write, it shall be sufficient if he place his mark or cross thereto in the presence of some literate person who shall attest the same, which attestation shall be in the prescribed form.

### 8. Forms of notice to be supplied

Every Registrar shall supply forms of notice gratuitously to any persons applying for the same.

### 9. Entry in Notice Book and publication of notice

Upon receipt of such notice the Registrar shall cause the same to be entered in a book to be called the "Marriage Notice Book" which may be inspected during office hours without fee. He shall also publish such notice by causing a copy of the same to be affixed on the outer door of the office and to be kept exposed there until he grant his certificate as hereinafter mentioned or until three months shall have elapsed.

### 10. Issue of certificate

- (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 issue his certificate in the prescribed form:

Provided always that he shall not issue such certificate until he has been satisfied by affidavit—

- (i) that one of the parties has been resident within the district in which the marriage is intended to be solemnised for at least fifteen days immediately preceding the granting of the certificate;
- (ii) that each of the parties to the intended marriage (not being a widower or widow) is not less than twenty-one years old or that if he or she is under that age the consent hereinafter made requisite has been obtained (which consent must be in writing and annexed to such affidavit);
- (iii) that there is not any impediment of kindred or affinity or any other lawful hindrance to the marriage;
- (iv) that neither of the parties to the intended marriage is married by African customary law to any person other than the person with whom such marriage is proposed to be contracted.

- (2) Such affidavit may be sworn before the Registrar.
- (3) The Registrar taking such affidavit shall explain to the person making the same what are the prohibited degrees of kindred and affinity and the penalties which may be incurred under the provisions of this Act.

*[As amended by No. 48 of 1963]*

### **11. Marriage to take place within three months of date of notice**

If the marriage shall not take place within three months after the date of the notice, the notice and all proceedings consequent thereupon shall be void: and further notice must be given in accordance with section six before the parties can lawfully marry.

### **12. Issue of special licence**

- (1) The Minister or an authorised officer, upon proof being made to him by affidavit that there is no lawful impediment to a proposed marriage and that any necessary consent to such marriage has been obtained, may, if he shall think fit, dispense with the giving of notice and with the issue of the certificate of the Registrar and may, upon payment of the prescribed fee, grant a special licence in the prescribed form authorising the solemnisation of a marriage between the parties named in the special licence by a Registrar or by a licensed minister of some religious denomination or body and may further, if he shall think fit, authorise the solemnisation of a marriage at a place named in the special licence, not being a licensed place of worship or Registrar's office.
- (2) In this section—

"authorised officer" means a public officer designated by the Minister as an authorised officer.

*[As amended by No. 11 of 1937, G.N. No. 316 of 1964 and No. 21 of 1969]*

### **13. Entry of caveat**

Any person whose consent to a marriage is hereby required, or who may know of any just cause why the 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 thereof the word "forbidden" opposite to the entry of the notice in the Marriage Notice Book and appending thereto his name and place of abode and the grounds upon or by reason of which he claims to forbid the issue of the certificate, and the Registrar shall not issue his certificate until such caveat shall be removed as hereinafter is provided.

### **14. Procedure on entry of caveat**

Whenever a caveat is entered against the issue of a certificate, the Registrar shall refer the matter to the High Court, 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 certificate and shall hear and determine the case in a summary way, and the decision of the High Court shall be final.

### **15. Cancellation (or otherwise) of caveat**

If the High Court decides that the certificate ought to be issued, the Judge shall remove the caveat by cancelling the word "forbidden" in the Marriage Notice Book in ink and writing in such Marriage Notice Book immediately below such entry and cancellation the words "cancelled by order of the High Court" and signing his name thereto. The Registrar shall then issue his 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 ten.

## 16. Costs of proceedings

The High Court may, in its discretion if it shall consider that a caveat has been entered in any case without reasonable or probable cause, order the person entering the caveat to pay any reasonable costs incurred by either of the parties to the intended marriage by reason of the proceedings consequent on such caveat being entered.

### Part III – Consent to marriage in certain cases necessary

## 17. When consent to marriage is necessary

If either party to an intended marriage, not being a widower or widow, is under twenty-one years of age, the written consent of the father, or if he be dead or of unsound mind or absent from Zambia, of the mother, or if both be dead or of unsound mind or absent from Zambia, of the guardian of such party shall be produced and shall be annexed to the affidavit required under sections ten and twelve and, save as is otherwise provided in section nineteen, no special licence shall be granted or certificate issued without the production of such consent.

*[As amended by G.N. No. 316 of 1964]*

## 18. Signature to consent and attestation

- (1) If the person required to sign such consent is unable to write, he shall sign such consent by placing his cross or mark thereto in the presence of one of the following persons: any Judge, District Secretary, Registrar of the High Court, Registrar of Deeds, Government Medical Officer, or minister of religion.
- (2) Such signature shall be attested by such person in the prescribed form.
- (3) The provisions of section two of the Interpretation and General Provisions Act shall not apply to this section.

*[Cap. 2]*

*[As amended by G.N. No. 493 of 1964]*

## 19. Consent in case of refusal or absence of parent or guardian

- (1) If any parent or guardian, whose consent to a marriage is required, refuses his consent, a Judge of the High Court may, on application being made, consent to the marriage, and the consent of the Judge so given shall have the same effect as if it had been given by the person whose consent is refused.
- (2) If there be no parent or guardian of such party residing in Zambia and capable of consenting to the marriage, then any of the following persons, that is to say, the Minister, a Judge of the High Court, or a District Secretary may consent to such marriage in writing, upon being satisfied after due inquiry that there are no reasonable grounds in the interest of either party for withholding such consent, and such consent shall be as effectual for the purposes of this Act as if the father or mother had consented.

*[As amended by No. 35 of 1947 and G.N. No. 316 of 1964]*

## Part IV – Solemnisation of marriage

### 20. Solemnisation of marriage by ministers

Marriages may be solemnised in any licensed place of worship by any licensed minister of the church, denomination or body to which such place of worship belongs and according to the rites and usages of marriage observed in such church, denomination or body, or with the consent of a recognised minister of the church, denomination or body to which such place of worship belongs by any licensed minister of any other church, denomination or body according to the rites and usages of marriage observed in any church, denomination or body. Every such marriage shall be solemnised with open doors between the hours of six o'clock in the forenoon and six o'clock in the afternoon, and in the presence of two or more witnesses besides the officiating minister.

*[No. 11 of 1937 as amended by No. 48 of 1953]*

### 21. Registrar's certificate or special licence to be provided to minister

A minister shall not solemnise any marriage if he knows of any just impediment to such marriage nor until the parties deliver to him the Registrar's certificate or the special licence, as the case may be.

*[As amended by G.N. No. 316 of 1964]*

### 22. Marriage in licensed building

A minister shall not solemnise any marriage except in a building which has been duly licensed by the Minister or in such place as the special licence may direct.

*[As amended by G.N. No. 316 of 1964]*

### 23. Marriage books

The Minister shall cause to be printed and delivered to the several Registrars and to the licensed ministers of licensed places of worship books of marriage certificates in duplicate in the prescribed form with counterfoils. Such books shall be kept by the several Registrars and the licensed ministers for the time being of such places of worship under lock and key and be in the custody of such Registrars and ministers respectively.

*[As amended by No. 11 of 1937 and G.N. No. 316 of 1964]*

### 24. Completion of marriage certificate

Immediately after the solemnisation of any marriage by a minister, the officiating minister shall fill up in duplicate a marriage certificate with the particulars required by the said prescribed form and enter in the counterfoil the prescribed particulars.

### 25. Attestation of marriage certificate

The certificate shall then be signed in duplicate by the officiating minister, by the parties and by two or more witnesses to the marriage. The minister having also signed his name to the counterfoil shall sever the duplicate certificate therefrom and shall deliver one certificate to the parties and shall, within seven days thereafter, transmit the other to the Registrar for the district in which the marriage takes place who shall transmit the same to the Registrar-General within seven days of the receipt thereof.

### 26. Marriage before Registrar

After the issue of a certificate under section ten or fifteen, or of a special licence, the parties may, if they think fit, contract a marriage before a Registrar in the presence of two witnesses, in his office with open

doors, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, in accordance with the prescribed procedure.

*[No. 36 of 1950 as amended by G.N. No. 316 of 1964]*

## **27. Issue of marriage certificate by Registrar**

The Registrar shall then fill up and he and the parties and witnesses shall sign the certificate of the marriage in duplicate and the Registrar shall then fill up and sign the counterfoil as hereinbefore provided in the case of a marriage by a minister and shall deliver one certificate to the parties and shall, within seven days, transmit the other to the Registrar-General.

## **28. Marriage in building other than licensed building or Registrar's office**

Whenever a special licence authorises the solemnisation of a marriage at a place other than a licensed place of worship or the office of a Registrar, the minister or Registrar solemnising such marriage shall observe strictly all the formalities hereinbefore provided as to marriage in a licensed place of worship or Registrar's office, as the case may be. The minister who has solemnised any such marriage shall deliver one certificate to the parties as in section twenty-five provided and shall, within seven days thereafter, forward to the Registrar for the district in which such marriage has been solemnised the other certificate of marriage and also a copy of the special licence pursuant to which the marriage has been solemnised. Within seven days of the receipt of such certificate and such copy, the Registrar shall forward them to the Registrar-General.

*[As amended by G.N. No. 316 of 1964]*

## **Part V – Registry and evidence of marriages**

### **29. Registration of marriages by Registrar-General**

- (1) The Registrar-General shall file in his office all certificates of marriage which shall be transmitted to him, and shall forthwith register in a book to be kept in his office for such purpose and to be called the "Marriage Register Book" in the prescribed form particulars of every certificate of marriage which shall be filed in his office, and every entry so made shall be dated on the day on which it is so entered and shall be signed by the Registrar-General, and such book shall be kept in such manner as is best suited for easy reference thereto.
- (2) Upon payment of the prescribed fees, the Registrar-General shall at all reasonable times allow searches to be made in the Marriage Register Book and shall give certified copies therefrom.
- (3) Every Registrar and the licensed minister for the time being of every licensed place of worship shall, at all reasonable times upon payment of the prescribed fee, allow searches to be made in the counterfoils of his marriage certificate books.

*[As amended by No. 11 of 1937]*

### **30. Correction in Register of clerical errors**

The Registrar-General may correct any clerical error in any certificate of marriage filed in his office and in the Marriage Register Book upon production to him of the certificate delivered to the parties, and shall authenticate every such correction by his signature and the date of such correction.

### **31. Certificate of marriage to be evidence**

Every certificate of marriage which shall have been filed in the office of the Registrar-General, or a copy thereof purporting to be signed and certified as a true copy by the Registrar-General for the time being, and every entry in a Marriage Register Book or copy thereof certified as aforesaid, shall be admissible as

evidence of the marriage to which it relates in any court of justice or before any person now or hereafter having by law or consent of parties authority to hear, receive and examine evidence.

### 32. Invalid marriages

- (1) No marriage in Zambia shall be valid—
  - (a) which if solemnised in England would, under the law relating to prohibited degrees of marriage for the time being in force in England, be null and void on the ground of kindred or affinity;
  - (b) where either of the parties thereto at the time of the celebration of such marriage is married by African customary law to any person other than the person with whom such marriage is had.
- (2) A marriage shall be null and void if both parties knowingly and wilfully acquiesce in its solemnisation—
  - (a) in any place other than the office of a Registrar or a licensed place of worship or a place authorised by the special licence; or
  - (b) under a false name or names; or
  - (c) without the Registrar's certificate of notice or special licence having been duly issued; or
  - (d) by a person not being a licensed minister of some religious denomination or body or a Registrar.

*[As amended by No. 11 of 1937, No. 48 of 1963 and G.N. No. 316 of 1964]*

### 33. Void marriages

- (1) A marriage between persons either of whom is under the age of sixteen years shall be void:  
Provided that this section shall not apply when a Judge of the High Court has, on application being made, and on being satisfied that in the particular circumstances of the case it is not contrary to the public interest, given his consent to the marriage.
- (2) Exemption of existing marriages  
Nothing in this section shall affect any marriage already solemnised or contracted before the 20th May, 1949.

*[No. 12 of 1949 as amended by No. 6 of 1955]*

### 34. Marriage under African customary law

Any person who is married under this Act or whose marriage is declared by this Act to be valid, shall be incapable during the continuance of such marriage of contracting a valid marriage under any African customary law, but, save as aforesaid, nothing in this Act contained shall affect the validity of any marriage contracted under or in accordance with any African customary law, or in any manner apply to marriages so contracted.

*[No. 48 of 1963]*

## Part VI – Validation of marriages already solemnised

### 35. Marriages already solemnised in Zambia

Every marriage solemnised in the portion of Zambia formerly known as North-Eastern Rhodesia before the 1st February, 1903, and every marriage solemnised in the portion of Zambia formerly known as

Barotseland-North-Western Rhodesia before the 16th July, 1906, by any minister of any religious denomination or body, according to the rites in use by such religious denomination or body, shall be and shall be deemed to have been from the time of the solemnisation thereof, a legal and valid marriage:

Provided that nothing herein contained shall legalise any marriage which has, before the commencement of this Act, been declared invalid by any competent court, nor any marriage, either party to which had at the time of its solemnisation a lawful wife or husband living, nor any marriage which was void by reason of kindred or affinity or fraud or incapacity to contract marriage, nor any marriage otherwise invalid, either party to which shall, before the commencement of this Act and in the lifetime of the other party thereto, have intermarried with any other person.

### 36. Records and evidence of such marriages

Every minister of religion or other person in Zambia who has in his custody or control any register, record or paper purporting to be such of marriage solemnised before the 1st February, 1903, in the portion of Zambia formerly known as North-Eastern Rhodesia, and before the 16th July, 1906, in the portion of Zambia formerly known as Barotseland North-Western Rhodesia, shall forthwith deliver or transmit to the Registrar-General the said register or official record or a copy thereof, unless a copy has already been transmitted pursuant to the provisions of the North-Eastern Rhodesia Marriage Regulations, 1903, or [Proclamation No. 15 of 1906](#) omitting if desired any matter of a private nature with a certificate appended thereto in the following form:

I, A.B., (*here describe place of abode and position*) do certify that the annexed written pages contain the true record (excepting matters of a confidential nature) of the marriages heretofore solemnised in (*here name church*).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

(Signed A.B.)

### 37. Costs transmission of records, etc.

The Minister may defray out of the general revenues of the Republic all proper expenses connected with the transmission or delivery of the said registers or which may otherwise become necessary to be incurred in carrying out the provisions of this Act.

[As amended by G.N. No. 316 of 1964 and S.I. No. 72 of 1964]

## Part VII – Offences and penalties

### 38. Contracting marriage under this Act when married in African customary law or contracting marriage in African customary law when married under this Act

Any person who—

- (a) contracts a marriage under this Act, being at the time married in accordance with African customary law to any person other than the person with whom such marriage is contracted;
- (b) having contracted a marriage under this Act, during the continuance of such marriage contracts a marriage in accordance with African customary law;

shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years:

Provided that this section shall not extend to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time.

[No. 48 of 1963]

**39. Accomplices**

Whoever being unmarried goes through the ceremony of marriage with a person whom he or she knows to be married to another person shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

**40. False declarations, etc.**

Whoever in any affidavit, declaration, licence, document or statement by law, to be made or issued for the purposes of a marriage, swears, declares, enters, certifies or states any material matter which is false shall, if he does so without having taken reasonable means to ascertain the truth or falsity of such matter, be liable on conviction to imprisonment with or without hard labour for one year or shall, if he does so knowing that such matter is false, be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

**41. False pretences in connection with consent to marriage**

Whoever endeavours to prevent a marriage by falsely pretending that his consent thereto is required by law, or that any person whose consent is so required does not consent, or that there is any legal impediment to the performing of such marriage, shall, if he does so knowing that such pretence is false or without having reason to believe that it is true, be liable on conviction to imprisonment with or without hard labour for a period not exceeding two years.

**42. Illegal performance of ceremony**

Whoever performs the ceremony of marriage knowing that he is not duly qualified so to do, or that any of the matters required by law for the validity of such marriage has not happened or been performed, so that the marriage is void or unlawful on any ground, shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

**43. Failure to fill up and transmit certificates**

Whoever, being under a duty to fill up the certificate of a marriage celebrated by him or the counterfoil thereof or to transmit the same to the Registrar, wilfully fails to perform such duty shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or, alternatively or in default of payment of such fine or in addition thereto, to imprisonment with or without hard labour for a period not exceeding two years.

*[As amended by Act [No. 13 of 1994](#)]*

**44. Personation**

Whoever personates any other person in marriage, or marries under a false name or description with intent to deceive the other party to the marriage, shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

**45. False representation**

Whoever goes through the ceremony of marriage, or any ceremony which he or she represents to be a ceremony of marriage, knowing that the marriage is void on any ground and that the other person believes it to be valid, shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding five years.

## Part VIII – Miscellaneous

### 46. Rules

The Minister may, from time to time by statutory instrument, make, alter, amend or repeal such rules as may be necessary for the proper carrying out of the provisions of this Act and more especially may prescribe—

- (a) the place or places at which shall be situate the offices of the Registrar-General and of the several Registrars;
- (b) the form and manner of giving any notice required by this Act and the particulars to be furnished;
- (c) the form of any attestation required by this Act;
- (d) the form of any certificate, licence, register or other document required for the purposes of this Act;
- (e) the conditions under which registers or other documents may be inspected;
- (f) the fees to be paid under the provisions of this Act in respect of anything required or permitted to be done or any document required to be executed and provision for their remission or reduction on account of the poverty of the parties or for other good reason;
- (g) the procedure to be followed when a marriage is contracted before a Registrar.

*[As amended by No. 36 of 1950 and G.N. No. 316 of 1964]*

### 47. Ministers may receive fees

Nothing herein contained shall preclude a minister from receiving the fees ordinarily paid to a minister of his denomination for the solemnisation of marriage.

### 48. Notice when solemnisation intended in United Kingdom

Where a marriage is intended to be solemnised or contracted in the United Kingdom between a British subject resident in England, Scotland or Ireland and a British subject resident in Zambia, the latter may give notice of the intended marriage to the Registrar of the marriage district in which he resides and a certificate for marriage may be issued by such Registrar in like manner as if the marriage was to be solemnised or contracted in Zambia under circumstances requiring and authorising the issue of such a certificate by him.

### 49. Validation of certain marriages

Any marriage solemnised before the 23rd July, 1937, by a recognised minister, according to the rites and usages of marriage observed in the church, denomination or body to which he belongs, in any licensed place of worship not of the same church, denomination or body as that to which the minister belongs, shall be, and shall be deemed always to have been, as valid as if the minister belonged to the church, denomination or body of such place of worship, and had solemnised the marriage according to the rites or usages of marriage observed in such last mentioned church, denomination or body.

*[No. 11 of 1937]*