

THE MARRIAGE AND DIVORCE BILL, 2009

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ENTITLED

**THE MARRIAGE AND DIVORCE ACT, 2009**

**An act to reform and consolidate the law relating to civil, Christian, Hindu, Bahai and customary marriages; to provide for the types of recognized marriages, marital rights and duties; recognition of cohabitation in relation to property rights; separation and divorce, and the consequences of separation and divorce; and for related matters.**

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

**1. Commencement**

This Act shall come into force on a date appointed by the Minister by statutory instrument.

**2. Application**

(1) This Act applies, unless otherwise provided, to all persons domiciled in Uganda who celebrate a civil, Christian, Hindu, Bahai or customary marriage or institute matrimonial proceedings.

(2) This Act does not bar parties who profess the Muslim faith from proceeding under it.

**3. Interpretation**

In this Act, unless the context otherwise requires—

“Bahai marriage” means a man and a woman becoming spiritually and physically united, so that they may have eternal unity throughout all the divine worlds and improve the spiritual life of each other;

“celebrant” means a person authorized to celebrate marriages by a church, religious body or denomination under this Act;

“Christian marriage” means a marriage of one Christian man and one Christian woman for life to the exclusion of others, solemnized in a licensed place of marriage for that purpose by a recognized celebrant; or solemnized by a recognized celebrant in a place directed by the Minister’s licence;

“cohabitation” means a man and a woman living together as husband and wife;

“conjugal rights” means the right which a husband and a wife have to each other’s society, comfort and affection;

“consortium” means the fact of a husband and wife living together, and includes the mutual rights to sex, companionship, care, services and all rights and obligations commensurate with the marriage status;

“co-ownership of property” means the concurrent ownership, possession and enjoyment of property by a person with his or her spouse;

“court” means a court of competent jurisdiction;

“currency point” has the value prescribed in the First Schedule;

“custom” means a rule which, having been continuously observed for a long time, has attained the force of law among a community or group, being a rule that is certain and not unreasonable or opposed to public policy and, in case of a rule applicable only to a family, has not been discontinued by the family;

“customary marriage” means a marriage celebrated according to the rites, practices and customs of an African community to which one or both of the parties belong;

“district” means a marriage district constituted under section 4;

“District Registrar” means an officer appointed under section 5(1), to perform functions relating to marriage under this Act;

“domicile” means a permanent home where one has decided to stay and has no intentions of leaving in the near future;

“family” means a husband and wife, including their children;

“Hindu” means a person who is a Hindu by religion in any form, including a Virashaiva, a Lingayat and a follower of the Brahmo, Prarthana or Arya Samaj, or a person who is a Buddhist of Indian origin, a Jain or a Sikh by religion;

“irretrievable breakdown of marriage” means a situation where the petitioner proves to the court that he or she can no longer live together with his or her spouse as husband or wife;

“judicial separation” means the separation of a husband and wife by court decree;

“Local Spiritual Assembly” means the local governing council of the Bahai Faith and in this Act, the authority responsible for solemnizing Bahai marriages;

“marriage” means the union between a man and a woman for life or until it is dissolved in the manner accepted by that form of marriage; and which is recognised under the laws of Uganda;

“marriage gift” means a gift, by whatever name known, in cash or in kind given by either party to a marriage in respect of that marriage and includes bride price and bride wealth;

- “Marriage Register Book” means a register book kept under section 8 for the purpose of registering marriages;
- “matrimonial home” means the principal residence or residences of the spouses;
- “matrimonial property” has the meaning given to it by section 116;
- “Minister” means the Minister responsible for justice;
- “monogamous marriage” means a marriage between a man and a woman neither of whom, during the subsistence of such marriage, shall be at liberty to enter or contract any other valid marriage;
- “non-monetary contribution” means the contribution made by a spouse for the maintenance of the family and acquisition of matrimonial property other than by way of money;
- “of the full blood” means descended from a common ancestor by the same wife;
- “of the half blood” means descended from a common ancestor but by different wives;
- “of uterine blood” means descended from a common female ancestor but different husbands;
- “person in authority” means a chief, the executive committee of a local government, a religious leader or other leader in the community;
- “place other than place of worship” means a place authorised by the Minister to solemnize a marriage;
- “polygamous marriage” means a marriage in which the man is married to more than one wife;
- “potentially polygamous marriage” means a marriage between a man and a woman in which the man has the capacity to contract another marriage during the subsistence of the first marriage, but has not yet done so;

“Registrar General” means the Registrar General as defined by the Uganda Registration Services Bureau Act;

“separate property” means the property which a spouse has acquired individually either before or during the marriage;

“spouse” means a husband or a wife in a marriage;

“widow inheritance” means a custom by which a relative of a deceased husband inherits the widow of the deceased husband as his wife;

“year of waiting” means the period of one full year from the date of official separation of a couple to the date of divorce in a Bahai marriage.

## PART II—GENERAL

### *Registrars*

#### **4. Marriage Districts**

The Minister shall, by statutory instrument, divide Uganda into marriage districts for the purposes of this Act and may, by that instrument, alter, amalgamate or sub-divide the districts as he or she may deem fit.

#### **5. Appointment of District Registrars and Deputy District Registrars**

Subject to the provisions of any law regulating the appointment of public officers, the Minister shall appoint a fit and proper person to be a registrar for each district to be known as the District Registrar; and the person appointed shall in addition, be the registrar of all marriages in the district and such other matters as may be prescribed by law.

#### **6. Registrars of marriage**

(1) A celebrant of a licenced place of public worship shall be the registrar of marriages in respect of the marriages solemnized in that place of worship.

(2) A Sub-county chief shall be the registrar of marriages in respect of any customary marriage celebrated in his or her locality.

(3) The Local Spiritual Assembly of the Bahai faith shall be the registrar of marriages in respect of marriages celebrated under the Bahai faith.

## **7. Office of District Registrar**

A District Registrar shall have an office at such place in the respective district as the Minister shall, by notice, publish in the Gazette.

## **8. District Marriage and Divorce Register Book**

(1) Every District Registrar shall enter in a book which shall be called the District Marriage and Divorce Register Book, all particulars of certificates of marriage and decrees of divorce which have been filed in his or her office.

(2) Every entry made under subsection (1) shall—

- (a) be made in chronological order; and
- (b) be signed by the District Registrar.

(3) The District Marriage and Divorce Register Book shall be open for inspection by the public during office hours on payment of the prescribed fee.

(4) The Marriage Register Book shall be in Form A specified in the Third Schedule to this Act.

## **9. Minister to license places of public worship to solemnize marriages**

(1) The Minister may license any place of public worship to be a place for the solemnization of marriages and may at any time cancel the licence.

(2) For the avoidance of doubt, the cancellation of a licence of a place of worship shall not affect the validity of any marriage solemnized in the place before the cancellation.

(3) The Minister shall give notice of the fact of licensing or cancellation of a licence under subsection (1)—

- (a) in the Gazette;
- (b) in at least one newspaper circulating in the district; and
- (c) to the person in charge of the place of worship concerned.

(4) All places of worship which at the commencement of this Act are licensed to solemnize marriages shall be deemed to have been licensed under this Act.

(5) A person in charge of any place referred to in subsection (4) shall notify the District Registrar of its existence with the documentary evidence of its being licensed to solemnize marriages within thirty days after the commencement of this Act.

(6) The District Registrar shall, immediately upon receipt of the documentary evidence referred to in subsection (5), make a return to the Registrar General who shall keep an up to date list of all the licensed places of worship in Uganda and cause it to be published once a year in the Gazette and in at least one newspaper circulating in the district.

#### **10. Minister's power to grant special licence to marry**

The Minister may, upon proof being given to him or her, that there is no lawful impediment to a proposed marriage, dispense with the giving of notice, the issue of the District Registrar's marriage licence, or the publication of banns, as the case may be, and grant a licence, in Form B specified in the Third Schedule to this Act authorising the solemnization of the marriage between the parties named in the Minister's licence, by the District Registrar, or by a recognized celebrant.

#### **11. Minister may direct where to solemnize marriage**

The Minister's licence under section 10 may authorize the solemnization of a marriage in a place other than a licensed place of worship.

**12. Recognised marriages**

(1) Subject to subsection (2), marriages under this Act are either—

(a) monogamous marriages including—

- (i) Christian marriages;
- (ii) civil marriages;
- (iii) Hindu marriages; and
- (iv) Bahai marriages; or

(b) polygamous marriages which are customary marriages.

(2) A marriage conducted in accordance with the laws of another country where one or both of the parties is subject to the laws of that country shall be recognized in Uganda as a valid marriage except where the marriage is between parties of the same sex.

(3) For the avoidance of doubt, all marriages recognized under this section have the same legal status.

(4) Without prejudice to any procedure prescribed for marriages under this Act, any institutions or practices which traditionally facilitate marriage which are not inconsistent with this Act or any written law shall continue to be recognised.

**13. Widow inheritance prohibited, marriage allowed**

(1) Widow inheritance is prohibited.

(2) A man shall not marry a widow through the custom or practice of widow inheritance.

(3) Without prejudice to subsection (2), a man may marry his relative's widow where both the man and the widow, with their free consent, adopt any form of marriage provided for under this Act.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.



**14. Marriage gifts not an essential requirement**

(1) Marriage gifts are not an essential requirement for any marriage under this Act.

(2) Where a marriage gift has been given by a party to a marriage under this Act, it is an offence to demand the return of the marriage gift.

(3) A person convicted of the offence under subsection (2) is liable to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

PART III—REQUIREMENTS, PRELIMINARIES AND  
SOLEMNIZATION OF CIVIL MARRIAGES

*Requirements of a valid Civil Marriage*

**15. Minimum age for marriage**

A person shall not have the capacity to contract a civil marriage unless he or she has attained eighteen years of age.

**16. Consent to marriage**

A civil marriage shall not be celebrated, solemnized or contracted in Uganda without the free consent of either party to the intended marriage.

**17. Prohibited degrees of relationship**

A person shall not be a party to a civil marriage where the parties are within the prohibited degrees of relationship, whether natural, legal, or by clan as set out in the Second Schedule to this Act.

**18. Same sex marriage prohibited**

Marriage between persons of the same sex is prohibited.

**19. Notice in civil marriage**

(1) Where a civil marriage is intended to be contracted, one of the parties to the intended marriage shall sign and give to the District Registrar of the district in which the marriage is intended to take place, a notice in Form C specified in the Third Schedule to this Act.

(2) Where the party who gives notice is unable to write or to understand the English language, it shall be sufficient if he or she places his or her mark on the notice in the presence of a literate person who shall attest the notice in Form D specified in the Third Schedule to this Act.

**20. Civil Marriages' Notice Book**

(1) Upon receipt of a notice given under section 19, the District Registrar shall cause the notice to be entered in a book to be called the Civil Marriages' Notice Book.

(2) The District Registrar shall also cause a copy of the notice to be published by affixing it on a public notice board at his or her office for twenty one consecutive days after the day on which the notice was entered in the Civil Marriages' Notice Book.

(3) The Civil Marriages' Notice Book shall be open for inspection by the public during office hours on payment of the prescribed fee.

**21. District Registrar's marriage licence in civil marriage**

(1) The District Registrar shall, at any time after the expiration of the period of twenty one days and before the expiration of three months after the date of the notice and upon payment of the prescribed fee by the parties, issue a licence in Form E specified in the Third Schedule to this Act.

(2) The District Registrar shall not issue a marriage licence under this section unless—

- (a) one of the parties has been resident within the district in which the civil marriage is intended to take place for at least fifteen days preceding the issue of the licence;
- (b) each of the parties to the intended marriage has, by declaration, proved to the satisfaction of the District Registrar of Marriages that he or she is not in contravention of the essential requirements as to age, prohibited degrees, consent and status; and
- (c) any objection, if any, has been removed.

(3) Any declaration under this section may be made before the District Registrar or before a Magistrate.

(4) The District Registrar or the Magistrate before whom a declaration is made shall explain to the person making the declaration the prohibited degrees of relationship specified in the Second Schedule and the penalties for false information.

## **22. Marriage to take place within three months after the issue of the District Registrar's licence**

(1) A civil marriage under this Act may be contracted or solemnized at any time within three months after the issue of the District Registrar's Marriage licence, except that a marriage under this Act may take place after the prescribed three months where the District Registrar is satisfied with the reasons for the delay, and upon payment by the parties of the prescribed fee.

(2) The period of delay shall not exceed three months from the date of expiry of the three months prescribed in subsection (1).

(3) If the marriage does not take place within the period allowed under subsection (2) the licence and all proceedings consequent on it shall be void, and fresh notice under section 19 shall be given before the parties can lawfully marry.

**23. Solemnization of civil marriage**

(1) After a District Registrar has issued a marriage licence or after the issue of the Minister's licence, a civil marriage may be solemnized in the office of the District Registrar to whom the notice of marriage was given or, in the case of a Minister's licence, at the place mentioned in the licence.

(2) A civil marriage shall be performed before a District Registrar—

(a) in his or her office;

(b) in the presence of at least two witnesses; and

(c) between the hours of nine o'clock in the morning and five o'clock in the afternoon.

(3) A District Registrar shall, after perusing the marriage licence, require the parties to the intended marriage to make the following declaration—

“I solemnly declare that I do not know of any lawful impediment why I, AB, may not enter into marriage with CD.”

(4) Each of the parties shall then say to each other—

“I call upon all persons here present to witness that I, AB take you, CD, to be my lawful wife/husband so long as both of us shall live.”

**24. Marriage certificate in a civil marriage**

(1) Immediately after a civil marriage has taken place, the officiating District Registrar shall fill in quintuplicate the marriage certificate in Form F specified in the Third Schedule to this Act and enter in the counterfoil, the serial number of the marriage, the names of the parties and the names of the witnesses.

(2) The marriage certificate shall be signed in quintuplicate by the officiating District Registrar, the parties and the witnesses to the marriage and the District Registrar shall give one copy to the parties to the marriage, retain one copy and forward one copy to the Registrar General.

*Objections to Civil Marriages*

**25. Objection to a civil marriage**

A person who knows of any reasonable ground why a civil marriage should not take place may enter an objection against the issue of the marriage licence by a District Registrar by writing, at any time before the issue of the licence, the word “forbidden” opposite the entry of the notice in the respective Marriage Notice Book and stating the reason why he or she claims to forbid the issue of the marriage licence.

**26. Objection by person outside Uganda**

Where a person who knows of any reasonable ground why a marriage should not take place resides outside Uganda, he or she may send his or her objection, signed in accordance with the law of his or her country of residence and duly authenticated by a Notary Public, counsel, or another person authorized by the law of that country for the purpose to the District Registrar concerned or the Registrar General, whichever would be best placed to ensure receipt of the objection.

**27. Grounds for objection to a civil marriage**

A person may make an objection to a marriage where—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party is of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, has a living spouse and the marriage with the living spouse is still subsisting;
- (d) the consent of either party to the intended marriage was obtained by force or fraud;
- (e) the intended marriage is in contravention of section 15, 16, 17 or 18.

**28. Time within which to make an objection**

A person may make an objection to a civil marriage at any time before the celebration of the marriage.

**29. District Registrar to refer matter to a Magistrates Court**

Where an objection is made in accordance with section 25 or 26, the District Registrar, or Registrar General shall refer the matter to a Magistrates Court.

**30. Court to summon parties**

The court to which an objection is referred under section 29, shall summon the parties to the intended marriage, and the person who placed the objection shall show cause why the District Registrar should not issue the marriage licence

**31. Issuing of commissions**

In the case of a person who has made an objection under section 26, the court may, if it considers it necessary, issue a commission in accordance with the Civil Procedure Rules relating to the issuing of commissions in respect of persons residing outside Uganda.

**32. Procedure on making a decision in objection proceedings**

(1) The court shall, on making its decision, forward the relevant court order in the prescribed form to the District Registrar, stating whether the objection has been dismissed or sustained.

(2) On receiving a court order dismissing the objection mentioned in subsection (1), the District Registrar shall file the order and shall cancel the word “Forbidden” in the respective Marriage Notice Book and permit the marriage to be solemnized.

(3) Where the court issues to the District Registrar an order sustaining the objection, the marriage shall not be solemnized.

(4) The court may, if it considers that an objection was made on insufficient grounds, direct the person who made the objection to pay such compensation or costs to a party to the marriage as it may deem fit.

**33. Appeals from court's decision in objection proceedings**

(1) The decision of a court in objection proceedings may be appealed against either on a point of law or fact, or both law and fact.

(2) The hearing of an objection by the court and also the hearing of an appeal, if any, shall each be completed within fifteen days after filing of the objection or the commencement of the appeal as the case may be.

*Void and Voidable Civil Marriages***34. Void civil marriage**

(1) A civil marriage is null and void where—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party was of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, had a living spouse and the marriage with the living spouse was still subsisting, except in the case of a customary marriage;
- (d) the consent of either party to the marriage was obtained by duress or fraud;
- (e) the marriage was contracted in contravention of any of the provisions of sections 15, 16, 17 and 18.

(2) The aggrieved party may petition the court for a declaration that his or her marriage is void.

**35. Voidable civil marriage**

(1) A civil marriage is voidable where one of the parties to the civil marriage—

- (a) unreasonably refuses to consummate the marriage for a period of three months from the time of the marriage;

- (b) is unable to consummate the marriage within six months;
- (c) is permanently impotent and the fact is not known to the other party at the time of contracting the marriage; or
- (d) conceals a material fact.

(2) The aggrieved party may, at his or her option, apply to a competent court on any of the grounds in subsection (1), to nullify the marriage.

### **36. Voidable marriage valid until annulled**

A voidable marriage is, for all purposes, a valid marriage until it is annulled by a decree of a competent court at the instance of the innocent party.

## PART IV—REQUIREMENTS, PRELIMINARIES AND SOLEMNIZATION OF CHRISTIAN MARRIAGE

### *Requirements of Valid Christian Marriage*

### **37. Minimum age for marriage**

A person shall not have the capacity to contract a Christian marriage unless he or she has attained eighteen years of age.

### **38. Consent to marriage**

A Christian marriage shall not be celebrated, solemnized or contracted in Uganda without the free consent of either party to the intended marriage.

### **39. Prohibited degrees of relationship**

A person shall not be a party to a Christian marriage where the parties are within the prohibited degrees of relationship, whether natural, legal, or by clan as set out in the Second Schedule to this Act.

### **40. Same sex marriage prohibited**

Marriage between persons of the same sex is prohibited.



**41. Publication of banns in Christian marriage**

(1) Parties to a Christian marriage shall fill in and sign the prescribed form before the celebrant of a licensed place of worship where the banns are to be published, to the effect that they are not in contravention of the essential requirements to a marriage.

(2) The banns referred to in subsection (1) shall be published—

- (a) where the persons to be married reside in the same marriage district, in the licensed place of worship of that marriage district; or
- (b) where the persons to be married reside in different marriage districts, in the marriage district where the two parties intend to celebrate the marriage.

(3) The banns shall be published once every seven days for a period of twenty one days, on days of worship.

(4) Where banns are published in one marriage district and the Christian marriage is to be solemnized in another marriage district, a celebrant shall not solemnize the marriage unless he or she has received a certificate from the marriage district where the banns were published, that the banns were duly published in that marriage district.

**42. Marriage to take place within three months after publication of banns**

(1) A Christian marriage under this Act may be contracted or solemnized at any time within three months after publication of the banns, except that a marriage under this Act may take place after the prescribed three months where the celebrant is satisfied with the reasons for the delay, and upon payment by the parties of the prescribed fee.

(2) The period of delay shall not exceed six months.

*Solemnization of Christian Marriage*

**43. Solemnization of a Christian marriage**

A Christian marriage shall be solemnized—

- (a) in a licensed place of worship;
- (b) in accordance with the observed customs, rites and practices of the Church, body or denomination to which the place of worship belongs;
- (c) by a recognized celebrant of the church, religious denomination or body to which either one or both parties to the marriage belong;
- (d) in the presence of at least two witnesses;
- (e) after the hour of eight o'clock in the morning and before six o'clock in the afternoon; and
- (f) with open doors.

**44. When Christian marriage may not be solemnized**

A celebrant shall not solemnize a Christian marriage if he or she knows of any lawful impediment to the marriage.

**45. Registration of Christian marriage**

(1) Immediately after a Christian marriage has taken place, the officiating celebrant shall fill in quintuplicate a marriage certificate in Form E in the Third Schedule and shall enter in the counterfoil, the number of the certificate, the date of the marriage, the names of the parties and the names of the witnesses.

(2) The marriage certificate referred to in subsection (1) shall be signed in quintuplicate by the officiating celebrant, by the parties and the witnesses to the marriage and the officiating celebrant shall give one copy to the parties to the marriage, retain one copy and forward two copies to the District Registrar who shall forward one of the copies to the Registrar General.

**46. Objections to a Christian marriage**

A person who knows of any reasonable ground why a Christian marriage should not take place may make an objection against the marriage to the relevant celebrant, either in writing or orally, stating the ground of his or her objection to the intended marriage, and the celebrant shall refer the matter to the District Registrar.

**47. Objection by person outside Uganda**

Where a person who knows of any reasonable ground why a Christian marriage should not take place resides outside Uganda, he or she may send his or her objection, signed in accordance with the law of his or her country of residence and duly authenticated by a Notary Public, counsel, or another person authorised by the law of that country in that behalf, to the Registrar concerned or the Registrar General, whichever would be best placed to ensure receipt of the objection.

**48. Grounds for objection to a Christian marriage**

A person may make an objection where—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party is of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, has a living spouse and the marriage with the living spouse is still subsisting;
- (d) the consent of either party to the marriage was obtained by force or fraud;
- (e) the intended marriage is in contravention of section 37, 38, 39 or 40.

**49. Time within which to make an objection**

A person may make an objection to a Christian marriage at any time before the celebration of the marriage.

**50. District Registrar to refer matter to a Magistrates court**

Where an objection is made in accordance with section 46 or 47, the district registrar, registrar or Registrar General shall refer the matter to a Magistrates Court.

**51. Court to summon parties**

The court to which an objection is referred under section 50, shall summon the parties to the intended marriage, and the person who placed the objection shall show cause why the celebrant, should not proceed to solemnize the marriage.

**52. Issuing of Commissions**

In the case of a person who has made an objection under section 47, the court may, if it considers it necessary, issue a commission in accordance with the Civil Procedure Rules relating to issuing of commissions in respect of persons residing outside Uganda.

**53. Procedure on making a decision in objection proceedings**

(1) The court, on making its decision, shall forward the relevant court order in the prescribed form to the district registrar, stating whether the objection has been dismissed or sustained.

(2) The district registrar shall forward the court order to the relevant celebrant.

(3) On receiving a court order dismissing the objection mentioned in subsection (1), the relevant celebrant shall file the order and may, without any further delay proceed with the solemnization of the marriage.

(4) Where the court issues to the district registrar an order sustaining the objection, the marriage shall not be solemnized.

(5) The court may, if it considers that an objection was made on insufficient grounds, direct the person who made the objection to pay such compensation or costs to a party to the marriage as it may deem fit.

**54. Appeals from the court's decision in objection proceedings**

(1) The decision of a court in objection proceedings may be appealed against either on a point of law or fact or both law and fact.

(2) The hearing of an objection by the court and also the hearing of an appeal, if any, shall each be completed within fifteen days after filing of the objection or the commencement of the appeal as the case may be

*Void and Voidable Christian Marriages***55. Void Christian marriage**

(1) A Christian marriage is void where—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party was of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, had a living spouse and the marriage with the living spouse was still subsisting;
- (d) the consent of either party to the marriage was obtained by force or fraud;
- (e) the marriage was contracted in contravention of section 37, 38, 39 or 40.

(2) The aggrieved party may petition court for a declaration that his or her marriage is void.

**56. Voidable Christian marriage**

(1) A Christian marriage is voidable where one of the parties to the marriage—

- (a) unreasonably refuses to consummate the marriage for a period of three months from the time of the marriage;

- (b) is unable to consummate the marriage within six months;
- (c) is permanently impotent and the fact is not known by the other party at the time of contracting a marriage; or
- (d) conceals a material fact.

(2) The aggrieved party may, at his or her option, apply to a competent court on any of the grounds in subsection (1), to nullify the marriage.

### **57. Voidable Christian marriage valid until annulled**

A voidable Christian marriage is, for all purposes, a valid marriage until it is annulled by a decree of a competent court at the instance of the innocent party.

## PART V—REQUIREMENTS, PRELIMINARIES AND SOLEMNIZATION OF CUSTOMARY MARRIAGES

### *Requirements of Valid Customary Marriage*

### **58. Minimum age for marriage**

A person shall not have the capacity to contract a customary marriage unless he or she has attained eighteen years of age.

### **59. Consent to marriage**

(1) A customary marriage shall not be celebrated, solemnized or contracted in Uganda without the free consent of either party to the intended marriage.

(2) The consent of a parent, relative, clan elder or any other person other than the respective parties to the customary marriage shall not be a requirement for the validity of any marriage solemnized, celebrated or contracted under this Part.

**60. Prohibited degrees of relationship**

A person shall not be a party to a marriage where the parties are within the prohibited degrees of relationship, whether natural, legal, or by clan as set out in the Second Schedule to this Act.

*Preliminaries of Customary Marriage***61. Preliminaries to a customary marriage**

The procedures preceding the solemnization of customary marriage shall be in accordance with the customs and rites observed among the ethnic group of one or both parties to the intended marriage.

*Solemnization of Customary Marriage***62. Place of solemnization**

Subject to the provisions of this Act, a customary marriage may be solemnized in any part of Uganda.

**63. Notice of intention to marry**

(1) A person intending to marry under this Part shall, in addition to the customs, rites and practices referred to in section 61, give notice of intention to marry in writing to a Sub-county Chief.

(2) The Sub-county Chief, shall cause the notice to be entered in the relevant Marriage Notice Book and shall, in addition to any other requirement, state that the parties have complied with the customary requirements not being inconsistent with any written law.

**64. Solemnization of customary marriages**

Subject to the provisions of the Constitution, a marriage under this Part shall be solemnized in accordance with the customs and rites observed among the ethnic group of one or both parties to the intended marriage.

**65. Sub-county Chief to sign marriage certificate**

(1) Upon the solemnization of a customary marriage, the Sub-county Chief, the parties to the marriage and at least two witnesses shall sign the marriage certificate in quintuplicate together with the parties to the marriage and at least two witnesses.

(2) The Sub-county Chief shall give one copy to the parties to the marriage and shall register the marriage in the Customary Registration Book, file a copy and forward two copies to the District Registrar as the case may be.

(3) The District Registrar shall upon receiving the two copies of the marriage certificate, file one copy and forward the other copy to the Registrar General.

**66. Fee for registration of marriage**

The parties to the particular marriage shall, at the time of registration of a customary marriage, pay a prescribed fee for a marriage certificate issued by the Sub-County chief.

*Objections to Customary Marriage***67. Objection to a customary marriage**

A person who knows of any reasonable ground why a customary marriage should not take place may make an objection against the marriage to the sub county chief, in writing or orally, stating the ground of his or her objection, and the sub county chief shall refer the matter to the District Registrar.

**68. Objection by person outside Uganda**

Where a person who knows of any reasonable ground why a customary marriage should not take place resides outside Uganda, he or she may send his or her objection, signed in accordance with the law of his or her country of residence and duly authenticated by a Notary Public, counsel, or another person authorised by the law of that country in that behalf, to the Registrar concerned or the Registrar General, whichever would be best placed to ensure receipt of the objection.



**69. Grounds for objection to a customary marriage**

A person may make an objection where—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party is of unsound mind at the time of the marriage;
- (c) the consent of either party to the intended marriage was obtained by force or fraud;
- (d) the intended marriage is in contravention of sections 58, 59 and 60.

**70. Time within which to make an objection**

A person may make an objection to a customary marriage at any time before the celebration of the marriage.

*District Registrar to refer matter to a Magistrates court*

**71. District Registrar to refer matter to a Magistrate court**

Where an objection is made in accordance with sections 67 or 68, the District Registrar or the Registrar General shall refer the matter to a magistrates court.

**72. Court to summon parties**

The court to which an objection is referred under section 71, shall summon the parties to the intended marriage, and the person who placed the objection shall show cause why the celebrant, should not proceed to solemnize the marriage.

**73. Issuing of commissions**

In the case of a person who has made an objection under section 69 of this Act, the court may, if it deems necessary, issue a commission in accordance with the Civil Procedure Rules relating to issuing of commissions in respect of persons residing outside Uganda.

**74. Procedure on making a decision in objection proceedings**

(1) The court, on making its decision, shall forward the court order in the prescribed form to the District Registrar stating whether the objection has been dismissed or sustained.

(2) The District Registrar will then forward the court order to the relevant Sub-county Chief.

(3) On receiving a court order dismissing the objection mentioned in subsection (1), the Sub-county Chief shall file the order and may without further delay, proceed to register the marriage;

(4) Where the court issues to the District Registrar an order sustaining the objection, the marriage shall not be registered.

(5) The court may, where it considers that an objection was made on insufficient grounds, direct the person who made the objection to pay such compensation or costs to a party to the marriage as it may deem fit.

**75. Appeals from the court's decision in objection proceedings**

(1) The decision of a court in objection proceedings may be appealed against either on a point of law or fact or both law and fact.

(2) The hearing of an objection by the court and also the hearing of an appeal, if any, shall each be completed within fifteen days after filing the objection or the commencement of the appeal as the case may be.

*Void and Voidable Customary Marriages***76. Void customary marriages**

(1) A customary marriage is void where—

- (a) the parties are within the prohibited degrees of relationship whether natural or legal or by marriage;
- (b) either party was of unsound mind at the time of the marriage;
- (c) the consent of either party to the marriage was obtained by duress or fraud;

- (d) the marriage was contracted in contravention of any of the provisions in sections 58, 59 and 60.

(2) The aggrieved party may petition the court for a declaration that his or her marriage to the other party is null and void.

### **77. Voidable customary marriages**

(1) A customary marriage is voidable where one of the parties to the marriage—

- (a) unreasonably refuses to consummate the marriage for a period of three months from the time of the marriage;
- (b) is unable to consummate the marriage within six months;
- (c) is permanently impotent and the fact is not known by the other party at the time of contracting a marriage; or
- (d) conceals a material fact.

(2) The aggrieved party may, at his or her option, apply to a competent court on any of the grounds above to nullify the marriage.

### **78. Voidable customary marriage valid until annulled**

A voidable customary marriage is for all purposes a valid marriage until it is annulled by a decree of a competent court at the instance of the innocent party.

### *Conversion of Customary Marriages*

### **79. Conversion of marriage**

Parties to a customary marriage may convert that marriage to a monogamous marriage under this Act, but only if the husband at the time of conversion has only one wife.

**80. Conversions to comply with preliminaries of a civil marriage**

(1) Parties intending to convert their marriages shall comply with the provisions relating to preliminaries for a civil marriage under Part III, except that the parties shall use the Forms G, H, I, J, and K specified in the Third Schedule to this Act.

(2) Where the conversion takes place in the District Registrar's office, each of the parties may, instead of saying to each other the words prescribed in section 21(4), the parties may say—

“I call upon all persons here present to witness that whereas I, AB has been married to you CD; under (*specify type of marriage*), I now solemnly, knowingly and willfully renounce the (*specify type of marriage*) and agree to continue and to take you as my wife (husband) in a monogamous marriage as long as we both shall live.”

**81. Marriage certificate on conversion of marriage**

(1) Immediately after a conversion has taken place, the officiating District Registrar, shall fill, in quintuplicate a marriage certificate in Form H in the Third Schedule to this Act and enter in the counterfoil the number, the date on which the marriage took place, the names of the parties and the names of the witnesses.

(2) The District Registrar or the celebrant shall retain one copy of the marriage certificate, give one copy to the parties to the marriage and—

- (a) in the case of the District Registrar forward one copy to the Registrar General; and
- (b) in the case of the celebrant, forward two copies to the District Registrar who shall retain one copy and forward the other copy to the Registrar General.

PART VI—REQUIREMENTS, PRELIMINARIES AND SOLEMNIZATION OF  
HINDU MARRIAGES*Requirements of a valid Hindu marriage***82. Conditions for Hindu marriages**

(1) A Hindu marriage may be solemnized where the following conditions are fulfilled—

- (a) neither party has a spouse living at the time of the marriage;
- (b) both parties are of sound mind at the time of the marriage;
- (c) both parties have attained the age of eighteen years; and
- (d) the parties are not within the prohibited degrees of relationship specified in the Second Schedule to this Act, unless the custom governing each of them permits of a marriage between them.

(2) For the purposes of this section, two persons are within the prohibited degrees of consanguinity where—

- (a) one is a lineal ancestor of the other;
- (b) one was the wife or husband of a lineal ancestor or descendant of the other;
- (c) one was the wife of the father's or mother's brother or of the grandfather's or grandmother's brother of the other;
- (d) one was the husband of the father's or mother's sister or of the grandfather's or grandmother's sister of the other;
- (e) they are brother and sister, uncle and niece, aunt and nephew or children of brother and sister or of brothers or sisters; or
- (f) they have a common ancestor not more than two generations distant if ancestry is traced through the mother of the descendant or four generations distant if ancestry is traced through the father of the descendant.

(3) The relationships referred to in subsection (2) include those of the half blood and of uterine blood as well as those of the full blood and the illegitimate child and adopted child of any person shall be deemed to be respectively the legitimate child and the child of the marriage of that person.

*Solemnization of Hindu marriages*

**83. Solemnization of Hindu marriages to accord with customs and rites of religious group**

(1) Subject to the provisions of the Constitution, marriage under this Part shall be solemnized in accordance with the customs and rites observed among the religious group of one or both of the parties to the marriage.

(2) Where the customary rites and ceremonies include the Saptapadi, that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire, the marriage becomes complete and binding when the seventh step has been taken.

(3) Where the marriage is solemnised in the form of Anand Karaj, that is, the going round the Granth Sahib by the bride and bridegroom together, the marriage becomes complete and binding as soon as the fourth round has been completed.

**84. Registration of Hindu marriages**

(1) Upon completion of a Hindu marriage ceremony, the priest or other person performing a Hindu marriage ceremony shall issue a certificate of marriage containing particulars of the parties to the marriage, the type of marriage contracted, place where the marriage was celebrated, and the date when marriage was celebrated, and it shall be signed by the priest, the parties to the marriage and at least two witnesses.

(2) Within three months after the completion of the ceremonies of the Hindu marriage, the parties to the marriage shall cause their marriage to be registered by appearing and presenting before the District Registrar, a certificate of their marriage, with at least two witnesses to the concluded marriage.

(3) After the details of the Hindu marriage have been entered in the relevant Register Book, the District Registrar, the parties and the witnesses to the marriage shall sign their names in the relevant Marriage Register Book.

(4) Notwithstanding anything in this section, the validity of a marriage shall in no way be affected by the omission to make an entry in any marriage register nor shall registration render valid any marriage which would otherwise be invalid.

(5) At the time of registration of a Hindu marriage, the parties to the particular marriage shall pay a prescribed fee for the marriage certificate issued by the District Registrar.

### *Objections to Hindu Marriage*

#### **85. Objection to Hindu marriage**

A person who knows of any reasonable ground why a Hindu marriage should not take place may make an objection against the marriage to the relevant celebrant, in writing or orally, stating the ground of his or her objection and the Registrar shall refer the matter to the District Registrar.

#### **86. Objection by person outside Uganda**

Where a person who knows of any reasonable ground why a Hindu marriage should not take place resides outside Uganda, he or she may send his or her objection, signed in accordance with the law of his or her country of residence and duly authenticated by a Notary Public, counsel, or another person authorized by the law of that country in that behalf, to the relevant Registrar concerned or the Registrar General, whichever would be best placed to ensure receipt of the objection.

#### **87 Grounds for objection to a Hindu marriage**

A person may make an objection where—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party is of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, has a living spouse and the marriage with the living spouse is still subsisting;
- (d) the consent of either party to the intended marriage was obtained by force or fraud;
- (e) the intended marriage is in contravention of section 82(1).

**88. Time within which to make an objection**

A person may make an objection to a Hindu marriage at any time before the celebration of the marriage.

*District Registrar to refer matter to a Magistrates court*

**89. District Registrar to refer matter to Magistrates Court**

Where an objection is made in accordance with section 85 or 86, the District Registrar or the Registrar General shall refer the matter to a Magistrates Court.

**90. Court to summon parties**

The court to which an objection is referred under section 85, shall summon the parties to the intended marriage, and the person who placed the objection shall show cause why the celebrant, should not proceed to solemnize the marriage.

**91. Issuing of commissions**

In the case of a person who has made an objection under section 86 of this Act, the court may, where it considers it necessary, issue a commission in accordance with the Civil Procedure Rules relating to the issuing of commissions in respect of persons residing outside Uganda.



**92. Procedure on making decision in objection proceedings**

(1) The court shall, on making its decision, forward the relevant court order in the prescribed form to the District Registrar stating whether the objection has been dismissed or sustained.

(2) The District Registrar shall forward the court order to the relevant celebrant.

(3) On receiving a court order dismissing the objection under subsection (1), the relevant celebrant shall file the order and may, without further delay, proceed with the solemnization of the marriage.

(4) Where the court issues to the District Registrar an order sustaining the objection, the marriage shall not be solemnized.

(5) The court may, where it considers that an objection was made on insufficient grounds, direct the person who made the objection to pay such compensation or costs to a party to the marriage as it may deem fit.

**93. Appeals from court's decision in objection proceedings**

(1) The decision of a court in objection proceedings may be appealed against either on a point of law or fact or both law and fact.

(2) The hearing of an objection by the court and also the hearing of an appeal, if any, shall each be completed within fifteen days after filing of the objection or the commencement of the appeal as the case may be.

*Void and Voidable Hindu Marriages***94. Void Hindu marriage**

(1) A Hindu marriage is void where—

- (a) the parties are within the prohibited degrees of relationship whether natural or legal or by marriage;
- (b) either party was of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, had a living spouse and the marriage with the living spouse was still subsisting;

- (d) the consent of either party to the marriage was obtained by force or fraud; and
- (e) the marriage was contracted in contravention of the provisions of section 82(1).

(2) The aggrieved party may petition court for a declaration that his or her marriage to the other party is void.

**95. Voidable Hindu marriage**

(1) A Hindu marriage is voidable where one of the parties to the marriage—

- (a) unreasonably refuses to consummate the marriage for a period of three months from the time of the marriage;
- (b) is unable to consummate the marriage within six months;
- (c) is permanently impotent and the fact is not known by the other party at the time of contracting a marriage; or
- (d) conceals a material fact.

(2) The aggrieved party may, at his or her option, apply to a competent court on any of the grounds in subsection (1) to nullify the marriage.

**96. Voidable Hindu marriage valid until annulled**

A voidable Hindu marriage is, for all purposes, a valid marriage until it is annulled by a decree of a competent court at the instance of the innocent party.

PART VII—REQUIREMENTS, PRELIMINARIES AND SOLEMNIZATION OF  
BAHAI MARRIAGES

*Requirements for Valid Bahai Marriage*

**97. Conditions for a Bahai marriage**

(1) A Bahai marriage shall be solemnized where the following conditions are fulfilled—

- (a) both parties have consented to the marriage;
- (b) the bridegroom has paid dowry to the bride;
- (c) the both parties have attained the age of eighteen years of age;
- (d) the parties are of the opposite sex; and
- (e) the parties are not within the prohibited degrees of relationship specified in the Second Schedule to this Act.

(2) It is unlawful to announce a marriage earlier or later than ninety five days from the day of engagement.

*Preliminaries of a Bahai Marriage*

**98. Preliminaries of a Bahai marriage**

Parties who intend to solemnize a Bahai marriage shall—

- (a) inform the Local Spiritual Assembly of their intention to get married;
- (b) inform the Local Spiritual Assembly of the date on which the ceremony is to take place;
- (c) identify two witnesses; and
- (d) issue a notice of the intention to marry to the public in the prescribed form.

*Solemnization of Bahai marriage*

**99. Solemnization of a Bahai marriage**

(1) Subject to the provisions of this Act, a Bahai marriage shall be solemnized in accordance with the customs and rites observed among the members of the Bahai faith.

(2) Notwithstanding subsection (1), a marriage shall be celebrated upon the parties reciting a specifically revealed verse namely—

“We will all verily abide by the will of God.”

### **100. Registration of a Bahai marriage**

(1) Within three months after the completion of the ceremonies of a Bahai marriage, the parties to the marriage shall cause their marriage to be registered by appearing and presenting before the District Registrar, a certificate of their marriage.

(2) After the details of the Bahai marriage have been entered in the relevant Register Book, the District Registrar, the parties and the witnesses to the marriage shall sign their names in the relevant Marriage Register Book.

(3) At the time of registration of a Bahai marriage, the parties to the particular marriage shall pay a prescribed fee for the marriage certificate issued by the District Registrar.

### *Objections to Bahai Marriages*

### **101. Objection to Bahai marriage**

A person who knows of any reasonable ground why a Bahai marriage should not take place may make an objection against the marriage to the Local Spiritual Assembly, in writing or orally, stating the ground of his or her objection, and the Local Spiritual Assembly shall refer the matter to the District Registrar.

### **102. Objection by person outside Uganda**

Where a person who knows of any reasonable ground why a Bahai marriage should not take place resides outside Uganda, he or she may send his or her objection, signed in accordance with the law of his or her country of residence and duly authenticated by a Notary Public, counsel, or another person authorised by the law of that country in that behalf, to the relevant District Registrar concerned or the Registrar General, whichever would be best placed to ensure receipt of the objection.

**103. Grounds for objection to a Bahai marriage**

A person may make an objection to a marriage using all or any of the following grounds—

- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
- (b) either party is of unsound mind at the time of the marriage;
- (c) either party, at the time of marriage, has a living spouse and the marriage with the living spouse is still subsisting;
- (d) the consent of either party to the marriage was obtained by force or fraud;
- (e) the intended marriage is in contravention of section 97(1).

**104. Time within which to make an objection**

A person may make an objection to a Bahai marriage at any time before the celebration of the marriage.

**105. District Registrar to refer matter to a Magistrates Court**

Where an objection is made in accordance with section 101 or 102, the District Registrar or the Registrar General shall refer the matter to a Magistrates Court.

**106. Court to summon parties**

The court to which an objection is referred under section 105, shall summon the parties to the intended marriage and the person who placed the objection shall show cause why the celebrant, should not proceed to solemnize the marriage.

**107. Issuing of commissions**

In the case of a person who has made an objection under section 102 of this Act, the court may, if it considers necessary, issue a commission in accordance with the Civil Procedure Rules relating to issuing of commissions in respect of persons residing outside Uganda.

**108. Procedure on making a decision in objection proceedings**

(1) The court shall, on making its decision, forward the court order in the prescribed form to the District Registrar stating whether the objection has been dismissed or sustained.

(2) The District Registrar shall forward the court order to the Local Spiritual Assembly.

(3) On receiving a court order dismissing the objection mentioned in subsection (1), the Local Spiritual Assembly shall file the order and may without any further delay, proceed with the solemnization of the marriage.

(4) Where the court issues to the Local Spiritual Assembly an order sustaining the objection, the marriage shall not be solemnized.

(5) The court may, if it considers that an objection was made on insufficient grounds, direct the person who made the objection to pay such compensation or costs to a party to the marriage as it may consider fit.

*Void and Voidable Bahai Marriage***109. Void Bahai Marriage**

- (1) A Bahai marriage is void where—
- (a) the parties are within the prohibited degrees of relationship, whether natural or legal or by marriage;
  - (b) either party was of unsound mind at the time of the marriage;
  - (c) either party, at the time of marriage, had a living spouse and the marriage with the living spouse was still subsisting;
  - (d) the consent of either party to the marriage was obtained by force or fraud; or
  - (e) the marriage was contracted in contravention of section 97(1).

(2) The aggrieved party may petition court for a declaration that his or her marriage is void.

**110. Voidable Bahai Marriage**

(1) A Bahai marriage is voidable where one of the parties to the marriage—

- (a) unreasonably refuses to consummate the marriage for a period of three months from the time of the marriage;
- (b) is unable to consummate the marriage within six months;
- (c) is permanently impotent and the fact is not known by the other party at the time of contracting a marriage; or
- (d) conceals a material fact.

(2) The aggrieved party may, at his or her option, apply to a competent court on any of the grounds in subsection (1), to nullify the marriage.

**111. Voidable Bahai Marriage valid until annulled**

A voidable Bahai marriage is, for all purposes, a valid marriage until it is annulled by a decree of a competent court at the instance of the innocent party.

*Breakdown of Bahai Marriage***112. Divorce in a Bahai marriage**

(1) Both parties in a Bahai marriage have equal rights to seek for divorce whenever either of them feels that it is essential to do so.

(2) A party seeking a divorce shall apply to the Local Spiritual Assembly to determine whether the marriage has irretrievably broken down before it sets the date for the beginning of the year of waiting.

(3) Notwithstanding subsection (2), either party may petition court for the divorce.

(4) A divorce in a Bahai marriage shall become valid after one year of separation, regardless of whether the other party refuses to accept it.

(5) During the year of waiting, parties to the marriage shall not enjoy their conjugal rights.

### **113. Dispensing with waiting period**

Where either party to a Bahai marriage, following the recital of the specifically revealed verse and the payment of the dowry, takes a dislike to the other before the marriage is consummated, the waiting period is not necessary prior to a divorce.

## PART VIII—MATRIMONIAL RIGHTS AND OBLIGATIONS

### **114. Conjugal rights**

(1) Spouses shall have conjugal rights in marriage.

(2) Notwithstanding subsection (1), a spouse may deny the other spouse the right to sexual intercourse on reasonable grounds which may include—

- (a) poor health;
- (b) surgery that affects the capacity to engage in sexual intercourse;
- (c) child birth; or
- (d) reasonable fear that engaging in sexual intercourse is likely to cause physical or psychological injury or harm.

(3) Where a spouse has sex with the other spouse against that spouse's consent in contravention of subsection (2), the act shall create both criminal and civil liability, and—

- (a) in the case of a criminal offence, it shall be punishable on conviction by a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both; and



- (b) in the case of a civil wrong it shall give rise to civil remedies such as a restriction order, judicial separation, suspension of conjugal rights and compensation.

*Property Rights*

**115. Types of matrimonial property**

Matrimonial property includes—

- (a) the matrimonial home;
- (b) household property in the matrimonial home;
- (c) any other property either immovable or movable acquired before or during the subsistence of a marriage, deemed to be matrimonial property by express agreement;
- (d) property which was separate property but which a spouse has made a contribution towards, except where the property relates to the sale of family land; and
- (e) seed money provided by a spouse for the establishment of a business.

**116. Matrimonial property to be owned in common**

Any matrimonial property, as defined in section 115, shall be owned in common by the spouses.

**117. Property agreement**

(1) Two persons in contemplation of a marriage or cohabitation with each other or cohabiting or married may make an agreement with respect to the ownership of—

- (a) separate property of each spouse or cohabitee;
- (b) property acquired during the marriage or cohabitation; or
- (c) distribution of property acquired during the marriage or cohabitation.

(2) The agreement may include the settlement of any differences that may arise regarding property owned by either, or both spouses.

**118. Form of agreement**

(1) An agreement under section 117 may define the share of the property or any part of the property to which each spouse is entitled on separation, dissolution of marriage, or termination of cohabitation.

(2) An agreement may be oral or in writing.

(3) Each party to an oral agreement shall have a witness and where an oral agreement is used in court, it shall be confirmed by affidavit.

(4) A written agreement shall be signed by both parties and witnessed by two persons chosen by the parties and may be made by the court as an order of the court.

(5) Where the agreement is made as an order of court, it may be amended or terminated only by an order of court on application by the parties and witnessed by two persons chosen by the parties.

(6) Where it is envisaged that a third party shall be affected by the amendment or termination, the application shall be on notice to the third party.

**119. Independent legal advice**

Each party to an agreement under section 117 may obtain independent legal advice before making or entering into the agreement.

**120. Certification of adviser**

(1) A person who provides legal advice under section 119 shall certify that the implications of the property agreement have been explained to the person who seeks to obtain the advice.

(2) Subject to section 121, an agreement to which this section applies is not enforceable where the court is of the opinion that it would be unjust to give effect to the agreement.

**121. Inquiry by Court**

(1) A court has jurisdiction to make an enquiry into an agreement made under section 117 during the cohabitation or marriage or on the termination of cohabitation or dissolution of the marriage.

(2) A spouse, party or any other person with an interest in the subject matter of the agreement may apply to the court for an inquiry to be made where there are reasonable grounds to believe that the court may set aside the agreement under section 117.

(3) Where a spouse, party to the agreement or a person with an interest in the subject matter of the agreement applies for an inquiry to be made, the court may make a declaration—

- (a) that the agreement shall have effect in whole or in part; or
- (b) that the agreement shall be set aside if satisfied that the interest of a party has been materially prejudiced by the action of a party to the agreement.

**122. Court to set aside agreement**

(1) Where a party to an agreement alleges that the agreement was entered into under—

- (a) duress;
- (b) undue influence;
- (c) fraud;
- (d) misrepresentation;
- (e) illegality;
- (f) lack of intention; or
- (g) any other vitiating factor such as the unequal bargaining position of a spouse,

the court may set aside the agreement and make another order for the distribution of the property.

(2) An agreement may be set aside by the court for lack of full disclosure of assets by a party to the agreement.

(3) The court may set aside or modify an agreement on the ground of unconscionability where it is satisfied that the purpose and effect of the agreement is contrary to conscience or that the agreement exploits the unequal bargaining position of a spouse.

### **123. Capacity to acquire separate property**

(1) A spouse in any form of marriage recognized under this Act shall have the capacity to acquire his or her own separate property during the subsistence of the marriage.

(2) Separate property shall not be taken into account for the purpose of the distribution of matrimonial property under this Act, unless there is an agreement to the contrary.

(3) Subsection (2) does not apply where the spouse proves that he or she made a contribution to the acquisition or maintenance of the separate property.

(4) Separate property includes—

- (a) independently acquired property and the proceeds and profits from the that property;
- (b) property acquired before marriage or property acquired by bequest, devise, inheritance or gift from a person other than the spouse;
- (c) property that was acquired by gift or inheritance from a third party after the date of the marriage;
- (d) income from property referred to in paragraph (c) where the giver or testator has expressly stated that it is to be excluded from the spouse's matrimonial property;
- (e) damages for personal injuries, nervous shock, mental distress or loss of guidance, care and companionship, or the part of a settlement that represents those damages;

- (f) proceeds or right to proceeds of an insurance policy payable on the death of the insured person;
- (g) property which the spouses by agreement regard as separate property;
- (h) trust property, except where the trust is a sham where the Court may set it aside in the best interest of the vulnerable spouse; and
- (i) any other property that a spouse can prove is separate property.

(5) The onus of proving that property is separate property is on the person who makes the claim.

**124. Equal access**

- (1) Spouses shall have equal access to matrimonial property.

(2) Equal access includes the right to the use, to benefit from and to enter the property and where there is an agreement between spouses, the disposal of the property.

**125. Property acquired before marriage**

Subject to section 115, the interest of any person in any immovable or movable property acquired before the marriage shall not be affected by the marriage except by express or implied agreement as construed through conduct.

**126. Liability incurred before marriage**

Liability incurred by a spouse before marriage relating to property shall after the marriage remain the liability of the spouse who incurred it, except that if the property becomes matrimonial property under section 115, the liability may be shared by the spouses, unless they agree otherwise.

**127. Contribution to property acquired before and during the marriage**

(1) Where a spouse acquires property before or during the marriage and the property does not fall within matrimonial property as defined in section 115, but his or her spouse makes a contribution towards the improvement of that property, be it monetary or in kind, the spouse without the interest shall acquire a beneficial interest equivalent to the contribution she or he made.

(2) The property referred to in subsection (1), excludes ancestral property.

**128. Matrimonial property in polygamous marriage**

Where a husband has more than one wife in a polygamous marriage, ownership in common of property between the husband and each particular wife shall be determined as follows—

- (a) matrimonial property acquired by the husband and the first wife shall be owned in common by the husband and the first wife in respect of the matrimonial property acquired before the husband married the second wife; and
- (b) the subsequent wives shall take interest only in the husband's share of the matrimonial property.

**129. Transactions related to the matrimonial property**

(1) A transaction shall not be entered into in respect of any matrimonial property except with the prior written consent of the other spouse.

(2) Consent referred to in subsection (1) shall not be unreasonably withheld.

(3) Notwithstanding subsection (1), the court may on application, dispense with the consent of a spouse if it is satisfied that—

- (a) the spouse is of unsound mind;
- (b) consent is unreasonably withheld;
- (c) the whereabouts of the spouse are unknown for a period of two years; or
- (d) any other sufficient reason as court may consider fit.

(3) Subject to subsection (2), where a spouse enters into a transaction that relates to the matrimonial home without the consent of the other spouse, that transaction may be set aside by the court on application by the other spouse.

(4) Where the court does not set aside a transaction, the spouse whose interest is defeated is entitled to claim out of the proceeds of the transaction, the value of that spouse's share in the matrimonial property.

(5) When a transfer of the matrimonial property is ordered by the court and a spouse ordered to make the transfer or conveyance is either unable or unwilling to do so, the court may order the registrar of the court to execute the appropriate transfer or conveyance on behalf of that spouse.

(6) The court may, by order, restrain a spouse or a third party from permitting the disposition of matrimonial property and the court may rescind a disposition of the property made with the intention of defeating the financial provision of a spouse, except to a purchaser for value in good faith.

(7) The court may make an order to preserve or maintain matrimonial property while a case relating to the property is pending before the court.

### **130. Marriage gifts**

Where a spouse or a cohabitee gives property to the other spouse or cohabitee during the subsistence of a marriage or cohabitation, there is a rebuttable presumption that the property belongs to the receiving spouse or cohabitee.

**131. Debt of spouse incurred during marriage**

Where during the subsistence of a marriage, a debt is incurred for the necessities of life for the immediate family—

- (a) with the consent of the other spouse, the debt shall become a family liability to be borne by both spouses equally; or
- (b) without the consent of the other spouse, the debt shall be borne by the spouse who incurred the debt, unless agreed otherwise by the spouses.

**132. Rented property**

Where the parties to a marriage or cohabitation live in rented premises, then, on application by either party, the court may order the premises to be assigned to one of the parties on dissolution of the marriage or cohabitation even though that party is not a party to the tenancy agreement and the court shall take into consideration the best interest of any children of the marriage or cohabitation.

**133. Presumptions as to property acquired during marriage**

Where, during the subsistence of a marriage or cohabitation, any property is acquired in the names of the spouses jointly or cohabitees jointly, there shall be a rebuttable presumption that the beneficial interests of the spouses or cohabitees are equal.

## PART IX—BREAKDOWN OF MARRIAGE

**134. Court's jurisdiction in matrimonial causes**

(1) A magistrates' court shall have jurisdiction, in all matters under this Part.

(2) A local council court shall have jurisdiction where there is a matrimonial cause arising out of a customary marriage.

**135. High Court to have original jurisdiction in foreign marriages**

The High Court shall have original jurisdiction in all matrimonial causes arising from marriages contracted under foreign laws.



**136. Matrimonial causes proceedings to be in open court**

Proceedings in a matrimonial cause shall be in open court except that where the court considers that the parties to any proceeding or their children if any, may be unduly prejudiced, the court may hold the proceedings in camera.

**137. Separation**

(1) Separation of parties may either be—

- (a) by agreement, where the parties consent to suspend cohabitation and the consent is witnessed by at least one representative of each party; or
- (b) by judicial separation, where a party petitions court applying for suspension of cohabitation on such grounds as would constitute a breakdown of marriage.

(2) Where a decree of judicial separation or separation agreement carries a non molestation clause and a non aggrieved party forces the other party to have sexual intercourse, the party forcing the other party, commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both the fine and imprisonment.

(3) An aggrieved party shall not, if discovered that he or she participated in consensual sexual intercourse, be entitled to redress.

**138. Effect of separation**

A decree of judicial separation or separation agreement shall relieve the parties of the duty to cohabit and to render each other consortium, except that the duty to maintain shall continue unless otherwise provided under the decree of separation.

**139. Power of court to set aside or vary decree of judicial separation**

(1) A court shall set aside a decree of separation on the application of either or both spouses if the spouses have consented to the setting aside of the decree.

(2) A court may vary the terms of the decree of separation on the application of both spouses or either spouse where there has been any material change in the circumstances of either or both the spouses.

(3) A court may rescind a decree of separation on the application of either spouse where the court is satisfied that the decree was obtained as a result of misrepresentation or mistake of fact.

**140. No petition for divorce during first two years of marriage**

(1) Subject to subsection (2), a spouse shall not petition for divorce before the expiry of two years from the date of the marriage.

(2) A spouse may apply to the relevant court for leave to bring a petition for divorce before the expiration of the two years specified in subsection (1) where the spouse can prove that he or she is suffering exceptional hardship in the marriage.

**141. No division of matrimonial property on separation**

(1) Upon separation of the spouses, matrimonial property shall not be divided between the parties but a court may order that the spouses share any income that may accrue from the matrimonial property.

(2) Any property that may individually be acquired by either spouse during the period of separation shall remain the property of the spouse who acquired it.

**142. Petition to reverse decree of judicial separation**

(1) A husband or wife upon the application of whose wife or husband a decree of judicial separation has been pronounced, may at any time present a petition praying for the reversal of the decree on the ground that it was obtained in his or her absence and that where desertion was the ground of the decree there was reasonable excuse for the desertion alleged.

(2) The court may, on being satisfied of the truth of the allegations of the petition, reverse the decree accordingly.

**143. Protection orders**

(1) A spouse in whose property the other spouse has acquired an interest by virtue of the marriage may, if deserted by him or her, apply by petition to the court for an order to protect any property which she or he may have obtained or may obtain after the desertion, against him or her and his or her creditors and any person claiming under him or her.

(2) The court may, if satisfied that the desertion was without reasonable excuse and that the spouse is maintaining him or herself make that order.

(3) The order shall state the time on which the desertion commenced and shall, as regards all persons dealing with the spouse in reliance on the order, be conclusive as to that time.

(4) While the order is in force, the spouse is and shall be taken to have been from the date of the desertion, in the like position in all respects with regard to the property and contracts and suing and being sued, as he or she would be if he or she had obtained a decree of judicial separation under this Act.

(5) The spouse, or any other creditor or person claiming under him or her may apply to the court for the discharge or variation of the order, and the court may, if the desertion has ceased, or for any other cause it considers fit, discharge or vary the order accordingly.

(6) Where the spouse or any creditor or person claiming under him or her, seizes or continues to hold any property of the other spouse after notice of any such order, the other spouse may by action recover the property, and also a sum equal to double its value.

**144. Effect of reversal, discharge or variation of judicial separation or protection order**

(1) The reversal, discharge or variation of a decree of judicial separation, or a protection order shall not affect any right or remedy which a person would otherwise have had in respect of any contract or act of the spouse entered into or done between the date of the decree or order and the date of the reversal, discharge or variation of the decree or order.

(2) Any person who, in relying on a decree or order—

- (a) makes any payment to; or
- (b) permits any transfer or act to be made or done by the spouse and notwithstanding that the decree or order may have been reversed, discharged or varied or the separation of the spouses may have ceased, or at some time since the making of the decree or order has been discontinued,

may be protected and indemnified as if at the time of the payment, transfer or act, the decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued, unless at the time of the payment, transfer or other act, that person had notice of the reversal, discharge or variation of the decree or order of the cessation or discontinuance of the separation.

#### **145. Irretrievable breakdown of marriage to be sole ground for divorce**

(1) A petition for divorce may be brought by either party to a marriage under this Act.

(2) The petition for divorce shall be on the sole ground that the marriage has irretrievably broken down.

#### **146. Contents of a petition for separation or divorce**

A petition for separation or divorce shall contain the following particulars—

- (a) form of marriage;
- (b) the names of the parties;
- (c) the ages of the parties;
- (d) the names, age and sex of the children, if any, of the marriage;
- (e) particulars of the facts giving the court jurisdiction;

- (f) particulars of any previous efforts to resolve the dispute, and that there is no hope of reconciliation;
- (g) a statement of the evidence to be relied on to establish the irretrievable breakdown of the marriage;
- (h) the terms of any related agreement made between the parties;
- (i) the orders being prayed for; and
- (j) a verification sworn by the petitioner before a Commissioner for Oaths that what is stated in the petition is correct.

**147. Evidence of breakdown of marriage**

(1) The court shall, in deciding whether or not a marriage has irretrievably broken down, have regard to all relevant facts regarding the conduct and circumstances of the parties and in particular, may refuse to grant a decree where a petition is founded exclusively on the petitioner's wrong doing.

(2) Without prejudice to subsection (1), a court may, without limiting the right of the court to accept other facts, accept any one or more of the following facts as evidence of the irretrievable breakdown of marriage—

- (a) the respondent's adultery and the fact that because of it, the petitioner finds it intolerable to live with the respondent;
- (b) sexual perversion on the part of the respondent;
- (c) cruelty, whether mental or physical on the part of the respondent affecting the health of the petitioner;
- (d) the respondent's desertion of the petitioner for a continuous period of at least two years immediately preceding the presentation of the petition without any justifiable cause;

- (e) a change of religion by the respondent where both parties followed the same faith at the time of the marriage and where the petitioner cannot tolerate the change of religion;
  - (f) incestuous adultery; and
  - (g) incestuous defilement.
- (3) Sexual perversion in subsection (2) (b) includes—
- (a) bestiality;
  - (b) sodomy;
  - (c) homosexuality; and
  - (d) pornography.

**148. Separation not a bar to divorce**

A spouse shall not be prevented from presenting a petition for divorce, or a court from granting a decree of divorce by reason only that the petitioner has previously on similar facts or substantially the same facts as those proved in support of the petition, been granted a decree of judicial separation.

**149. Where court is not satisfied with evidence**

The court shall not be bound to pronounce the decree if it is not satisfied with the evidence adduced that the marriage has irretrievably broken down.

**150. Grant of decree nisi and decree absolute**

(1) Where court is satisfied, on the basis of the evidence before the court that the marriage has irretrievably broken down, it shall grant in open court, a decree nisi for the dissolution of the marriage.

(2) A decree nisi for dissolution may not be made absolute until after the expiration of six months from the date of the decree.

**151. Cross-petitions**

Where a petition has been filed for divorce or separation and the respondent also has grounds for divorce or separation against the petitioner, the respondent shall have a right to file a cross petition.

**152. Party's right of appeal**

A party that is not satisfied with the decision of court may appeal against the decision.

**153. Competence of husbands and wives as witnesses in civil proceedings**

In all matrimonial proceedings, the husband or wife of any party to the suit, shall be a competent and compellable witness.

**154. Court's powers to divide matrimonial property**

(1) Where a decree absolute has been granted terminating a marriage, the court may proceed to divide any matrimonial property between the parties to the dissolved marriage, subject to any ante or post nuptial agreements the parties may have made relating to division of property.

(2) Where contribution has been made to property that does not amount to matrimonial property by one spouse, that spouse shall be compensated by the other spouse or property owner.

(3) The court may, instead of dividing the matrimonial property between the parties, require one party to compensate the other party for the value of that party's interest in the matrimonial property.

**155. Distribution of property**

(1) Where cohabitation terminates or a marriage is in the process of being dissolved, the court that determines the property rights of the spouses may make an order to equitably distribute property jointly acquired during the cohabitation or marriage without regard to the reasons for the breakdown of the marriage.

(2) The distribution of the property shall be in equal shares but shall not be less than one third of the value of the jointly acquired property unless a spouse can prove that the other spouse should be given less than half.

(3) The court shall take into consideration the particular circumstances of each case when distributing the property and shall take into consideration—

- (a) the length of marriage or period of cohabitation;
- (b) age of spouse;
- (c) the contribution of each spouse to the acquisition, maintenance or improvement of the property including the contribution of a spouse towards the upkeep or maintenance of the property in cash or kind;
- (d) domestic work and management of the home;
- (e) the contribution of the immediate family or any contribution to the maintenance of the matrimonial home or which facilitates the acquisition of the property or matrimonial home by a spouse;
- (f) the economic circumstances of each spouse at the time of the distribution of the property, including the desirability to award the matrimonial home to a particular spouse or the right of a spouse who has custody of a child to live in the matrimonial home for a reasonable period of time;
- (g) the need to make reasonable provision for other spouses and their children as regards matrimonial property where the marriage is polygamous;
- (h) the period of cohabitation;
- (i) whether there is an agreement related to the ownership and distribution of the property in the best interest of the vulnerable spouse;



- (j) financial misconduct or the wasting of assets; and
- (k) any other fact which, in the opinion of the court, requires consideration.

(4) For the purpose of this section, a monetary contribution shall not be presumed to be of greater value than a non-monetary contribution.

(5) The non-monetary contribution shall not be proved in monetary terms.

### **156. Property settlement**

(1) In a proceeding related to property, the court may make an order to alter the interest of either spouse in the property including an order—

- (a) for a settlement of property in substitution for an interest in the property; and
- (b) requiring either or both spouses to make, for the benefit of either or both spouses, settlement or transfer of property determined by the court.

(2) The court shall not make an order under subsection (1), unless it is satisfied that it is just and equitable to do so.

(3) Where the court makes an order under subsection (1), it shall have regard to—

- (a) the effect of the proposed order on the earning capacity of either spouse; and
- (b) any other order that has been made under this Act in respect of a spouse.

### **157. Court to set aside order**

(1) Where the court is satisfied on an application made by a person affected by an order, that the order was obtained by fraud, duress, the giving of false evidence or the suppression of evidence, the court may set aside the order and make another order.

(2) The court shall have regard to the protection of the interest of a purchaser in good faith for value without notice in exercising its power under subsection (1).

**158. Orders relating to children on separation or divorce**

The court shall be guided by the provisions of the Children Act and in particular, the welfare principle, when making orders relating to maintenance and custody of children on separation and divorce.

**159. Maintenance to cease on re-marriage**

The right of a party to receive maintenance from his or her former spouse shall cease immediately on the re-marriage of that party.

**160. Power of court to vary maintenance order**

The court may, from time to time, vary or rescind any subsisting order for maintenance on the application of the party in whose favor or against whom the order was made on being satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in the circumstances of the parties.

**161. Remarriage of the parties**

When the time limit for appealing against a decree of dissolution or nullity of marriage has expired and no appeal has been presented or when, in the result of any such appeal, a marriage is declared to be dissolved or annulled, the parties to the marriage may marry again as if the prior marriage had been dissolved by death.

**PART X—MISCELLANEOUS****162. Correction of errors**

The Registrar General may correct any clerical error in a register, return or certificate.

**163. Quarterly returns**

Within ten days before the last day of every quarter, each District Registrar shall forward to the Registrar General, a copy of all entries made in the respective Marriage Register Books.

**164. Expenses to be defrayed from public funds**

The Minister may defray out of monies provided by Parliament all proper expenses connected with the transmission or delivery of the marriage registers or which may otherwise become necessary to be incurred in giving effect to this Act.

*Offences and Penalties***165. Jactitation of marriage**

(1) A person who falsely claims or asserts that he or she is married to a particular person commits an offence known as jactitation of marriage and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

(2) In a suit for jactitation of marriage, the respondent may as a defence, prove that—

- (a) a marriage recognized under this Act exists or formerly existed between the petitioner and the respondent; or
- (b) the petitioner has expressly or by conduct authorized the respondent to make the representations that he or she is married to him or her.

(3) Where the court is satisfied that the offence of jactitation of marriage was committed, it shall make an order for an injunction against the respondent restraining him or her from making further representations.

(4) In addition to the remedy under sub section (3), the court may award any other remedy in consideration of the consequences of the offence, as it may consider fit.

**166. Bigamy**

(1) A person who commits bigamy is liable to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

(2) In this section “bigamy” means the act of marrying another person during the existence of a subsisting monogamous marriage.

**167. Making false statements**

A person, who, for purposes of doing anything required to be done under this Act, makes any statement whether oral or written which is false in a material particular—

- (a) knowing that it is false; or
- (b) without having taken reasonable care to find out whether the statement is true or false,

commits an offence and is liable, on conviction, to a fine not exceeding twenty four currency points or imprisonment not exceeding one year.

**168. Marriage with person previously married**

Any person who being unmarried, undergoes a ceremony of marriage with a person whom he or she knows to be married to another person, commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

**169. Making false declarations, etc. for marriage**

(1) A person who, in any declaration, certificate, licence, document or statement required by law to be made or issued for the purposes of a marriage, declares, enters, certifies or states any material matter which is false, without having taken reasonable means to ascertain the truth or falsity of that matter, commits an offence.

(2) A person who contravenes subsection (1), is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

**170. False pretence of impediment to marriage**

Any person who prevents a marriage by doing any of the following acts—

- (a) by claiming that his or her consent to it is required by law;
- (b) by claiming that any person whose consent is required does not consent; or
- (c) by claiming that there is any legal impediment to the performing of the marriage and where he or she does so knowing that the pretence is false or without having reason to believe that it is true by true,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

**171. Unlawfully performing marriage ceremony**

Any person who performs or witnesses as a marriage officer a ceremony of marriage, knowing that he or she is not duly qualified to do so or that any matter required by law for the validity of the marriage has not happened or been performed, so that the marriage is void or unlawful on any ground, commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment for a term not exceeding five years or both.

**172. Willful neglect of duty to fill or transmit certificate of marriage**

Any person who, being under a duty to fill out the certificate of marriage celebrated by him or her or its counterfoil, or to transmit the certificate to the registrar, willfully fails to perform that duty, commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year, or both.

**173. Personation in marriage**

Any person who personates any other person in a marriage or marries under a false name or description with intent to deceive the other party to the marriage, commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment for a term not exceeding five years or both.

**174. Fictitious marriage**

Any person who undergoes a 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, commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or both.

*General***175. Regulations**

(1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of the provisions of this Act.

(2) The Minister may, by regulations made under this section with the approval of Cabinet grant recognition to the solemnization of marriages and institution of matrimonial causes, including petitions for separation or divorce by any religious denomination other than those provided for in this Act.

(3) Without prejudice to the general effect of subsection (1), regulations made under this section may provide for—

- (a) forms to be used under this Act;
- (b) matters for which fees shall be paid;
- (c) fees to be paid to the registrars for the several matters to which they apply;
- (d) registers and records to be maintained under this Act and for their inspection;

- (e) making of returns under this Act;
- (f) penalties in respect of any contravention of the regulations not exceeding a fine of forty eight currency points or two years imprisonment or both; and
- (g) any other matter conducive or incidental to the implementation of this Act.

(4) The fees collected under the regulations made under this section, shall be paid in to the Consolidated Fund.

**176. Minister's power to amend First Schedule `**

The Minister may by statutory instrument in consultation with the Minister responsible for finance and the approval of Cabinet, amend the First Schedule to this Act.

**177. Forms**

The forms contained in the Fourth Schedule may be used in the cases to which they are applicable, with such alterations as may be necessary.

**178. Repeals and savings**

(1) The following enactments are repealed—

- (a) the Customary Marriage (Registration) Act (Cap. 248);
- (b) the Divorce Act (Cap. 249);
- (c) the Hindu Marriage and Divorce Act (Cap. 250);
- (d) the Marriage Act (Cap. 251); and
- (e) the Marriage of Africans Act (Cap. 253).

(2) Nothing in this Act shall affect any marriage, divorce or other act or order made under any of the Acts repealed by subsection (1).

FIRST SCHEDULE

Currency Point

A currency point is equivalent to twenty thousand shillings.



ss.17, 39, 60, 82(d) and 97(1)(e)

Prohibited Degrees of Relationship

mother	-	father
mother's daughter	-	father's son
daughter	-	son
father's mother	-	father's father
mother's mother	-	mother's father
son's daughter	-	son's son
daughter's daughter	-	daughter's son
sister	-	brother
wife's mother	-	husband's father
	-	husband's son
father's sister	-	father's brother
mother's sister	-	mother's brother
brother's daughter	-	brother's son
sister's daughter	-	sister's son
father's brother's daughter	-	father's brother's son
mother's sister's daughter	-	mother's sister's son
son's wife	-	daughter's husband
father's wife	-	mother's husband

The relationships prescribed in this Schedule apply whether they occur naturally or legally, or by marriage.

THIRD SCHEDULE

FORMS

*s. 8(4)*

REPUBLIC OF UGANDA

Form A  
Marriage Register Book.

The Marriage and Divorce Act, 2009

When married/ divorced	Names and surnames	Whether full age or minor	Condition	Occupation	Residence	Father's name and occupation
---------------------------	-----------------------	---------------------------------	-----------	------------	-----------	------------------------------------

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, at the district registry of marriages at \_\_\_\_\_.

\_\_\_\_\_  
*Registrar*

REPUBLIC OF UGANDA

Form B

Special Licence  
The Marriage and Divorce Act, 2009

Whereas \_\_\_\_\_ (*name*)  
and \_\_\_\_\_ (*name*)  
desire to marry, and sufficient cause has been shown to me why the preliminaries required by the Marriage Act should be dispensed with:

Now, therefore, in pursuance of that Act, I dispense with the giving of notice and the issue of the certificate prescribed by the Act, and authorize any registrar of marriages, or recognized celebrant of a religious denomination or body to celebrate marriage between \_\_\_\_\_ (*name*) and \_\_\_\_\_ (*name*), at \_\_\_\_\_ (*place of celebration*), within \_\_\_\_\_ days from the date of this licence.

The marriage may be celebrated by a registrar of marriages between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, or by the recognized celebrant between the hours of eight o'clock in the forenoon and six o'clock in the afternoon.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*Minister*

REPUBLIC OF UGANDA

**Form C**  
Notice of Marriage

The Marriage and Divorce Act, 2009

To the registrar of marriages for the \_\_\_\_\_  
district of Uganda.

I give you notice that a marriage is intended to be solemnized within three months from the date of this notice between me, the undersigned, and the other party named in the notice.

Name	Condition	Occupation, or profession	rank	Age	Dwelling or place of abode	Consent (if any) and by whom given
Bridegroom	Bachelor widower	or				
Bride	Spinster or widow					

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
*Signature*

REPUBLIC OF UGANDA

ss. 19(2)

**Form D**

Form of Attestation

The Marriage and Divorce Act, 2009

Signed by \_\_\_\_\_, at  
 \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, this  
 notice having been first read over to him/her, [or, read over and truly  
 interpreted to him/her in the \_\_\_\_\_ language]  
 by \_\_\_\_\_.  
 He/she seemed to understand the notice and made his/her mark to it in my  
 presence.

---

*Signature*

REPUBLIC OF UGANDA

**Form E**

Registrar’s Licence

The Marriage and Divorce Act, 2009

I, \_\_\_\_\_, registrar of marriages in the \_\_\_\_\_ district of Uganda, certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, notice was duly entered in the Marriage Notice Book of this district of the marriage intended between the parties named and described in this certificate, the notice being delivered under the hand of \_\_\_\_\_, one of the parties.

Name	Condition	Occupation, rank or profession	Age	Consent	Dwelling	Length of residence
(Man)	Bachelor					
(Woman)	Spinster					

Date of notice entered \_\_\_\_\_ Date of licence given \_\_\_\_\_ No caveat has been entered against the issue of the licence or a caveat was entered against the issue of this licence on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, but it has been cancelled.

Witnessed under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
*Registrar of Marriages*

\_\_\_\_\_  
*District*

Note: This license will be void unless the marriage is solemnized on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

**Form F**

No. \_\_\_\_\_ CERTIFICATE OF MARRIAGE - UGANDA

Date of marriage: Marriages celebrated in the \_\_\_\_\_ at \_\_\_\_\_ in Uganda.

Names of the parties

No. \_\_\_\_\_

Date: \_\_\_\_\_

No.

When married

Names and surnames

Full age or minor

Condition

Rank or Profession

Residence at time of marriage

Father's name and surname

Occupation, rank or profession of father.

Names of the witnesses

Name of husband

Name of wife

Witnesses

Married at \_\_\_\_\_ by (or before) me.

\_\_\_\_\_  
*Minister or Registrar*

Signature of Minister  
(or Registrar)

This marriage  
was celebrated  
between us

In the presence of us  
as witnesses

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REPUBLIC OF UGANDA

**Form G**

Notice of Conversion of Marriage from a customary marriage into a Christian or Civil marriage.

The Marriage and Divorce Act, 2009

To the registrar of marriages for the \_\_\_\_\_ district of Uganda.  
I give you notice that I, the undersigned, and the other party named in this notice, being married to each other by customary law intend within three months after the date of this notice to convert that marriage into a marriage by which we shall be legally bound to each other as man and wife so long as we both shall live.

Name	Occupation, rank or profession	Age	Dwelling or place of abode	Consent (if any) and by whom given
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(Man)

(Woman)

Witnessed under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*Signature*



REPUBLIC OF UGANDA

**Form H**

Registrar's Certificate

The Marriage and Divorce Act, 2009

I, \_\_\_\_\_, registrar of marriages in the \_\_\_\_\_ district of Uganda, certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, notice was duly entered in the Marriage Notice Book of this district of the intended conversion by the parties named and described in this certificate of their former marriage by customary law into a marriage by which they shall be legally bound to each other as man and wife so long as both shall live, the notice being delivered under the hand of \_\_\_\_\_, one of the parties.

Name	Occupation, rank or profession	Age	Consent	Dwelling	Length of residence
------	-----------------------------------	-----	---------	----------	------------------------

(Man)

(Woman)

Date of notice entered \_\_\_\_\_

Date of certificate given \_\_\_\_\_

No caveat has been entered against the issue of the certificate/or A caveat was entered against the issue of this certificate on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, but it has been cancelled.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*Registrar of Marriages*

\_\_\_\_\_  
*District*

NOTE: This certificate will be void unless the ceremony of converting the marriage by customary law into a legally binding marriage is performed on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

REPUBLIC OF UGANDA

**Form I**  
**Special Licence**

The Marriage and Divorce Act, 2009

Whereas \_\_\_\_\_ (*name*)  
and \_\_\_\_\_ (*name*),

professing themselves to be already married to each other by customary law, desire to convert that marriage into a marriage by which they shall be legally bound to each other as man and wife so long as both shall live and whereas sufficient cause has been shown to me why the preliminaries required by the Marriage Act should be dispensed with:

Now, therefore, in pursuance of that Act, I dispense with the giving of notice and the issue of the certificate prescribed, and authorize the registrar of marriages for the \_\_\_\_\_ district to perform the ceremony by which, under the Marriage Act, the marriage by customary law shall be converted into a marriage by which the parties shall be legally bound to each other as man and wife so long as both shall live.

The ceremony may be performed by the registrar of marriages between the hours of ten o'clock in the forenoon and four o'clock in the afternoon.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*Minister*

Form J

The Marriage and Divorce Act, 2009

Uganda No. \_\_\_\_\_  
Date of  
conversion of  
marriage by  
customary law  
into legally  
binding  
marriage:

CERTIFICATE OF MARRIAGE - UGANDA

Marriages by customary law converted into legally binding marriages in the office of the registrar at \_\_\_\_\_ in Uganda.

Names of the parties

No. \_\_\_\_\_

Date: \_\_\_\_\_

When marriage by customary law converted into legally binding marriage

Names and surnames

Full age or minor

Rank or profession

Residence at time of conversion of marriage by customary law into legally binding marriage

Father's name and surname

Occupation, rank or profession of father

Name of husband

Names of the witnesses

Name of wife

Witnesses

Names of the witnesses

Signature of Registrar Marriage by customary law converted into marriage by which the parties are legally bound to each other as man and wife so long as we both shall live. At \_\_\_\_\_ before me.

\_\_\_\_\_  
*Registrar*

Our marriage by customary law was converted into a marriage by which we are legally bound to each other as man and wife so long as we both shall live.

Signature of Registrar

\_\_\_\_\_  
In the presence of us \_\_\_\_\_  
as witnesses \_\_\_\_\_

Republic of Uganda

**Form K**

Marriage Register Book.

The Marriage and Divorce Act, 2009

Date of conversion of marriage by customary law into legally binding marriage	Names and surnames	Whether full age or minor	Condition	Occupation	Residence	Father's name and occupation
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Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, at the district registry of marriages at \_\_\_\_\_.

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*Registrar*

**Cross References**

1. Constitution of the Republic of Uganda, 1995
2. Children Act, (Cap. 59)
3. Civil Procedure Act, (Cap. 71)
4. Customary Marriage (Registration) Act, (Cap. 248)
5. Divorce Act, (Cap.249)
6. Hindu Marriage and Divorce Act, (Cap. 250)
7. Marriage Act, (Cap. 251)
8. Marriage of Africans Act, (Cap. 253)
9. Magistrate's Court Act, (Cap. 16)
10. Uganda Registration Services Bureau Act, (Cap. 210)

**BILLS SUPPLEMENT**

*to the Uganda Gazette No. 51 Volume CII dated 16th October, 2009.*

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**Bill No. 19**

*Marriage And Divorce Bill*

**2009**

**THE MARRIAGE AND DIVORCE BILL, 2009**

**MEMORANDUM**

1. The object of this Bill is to reform and consolidate the law relating to marriage, separation and divorce; to provide for the types of recognized marriages in Uganda, marital rights and duties, recognition of cohabitation in relation to property rights, grounds for breakdown of marriage, rights of parties on dissolution of marriage and for other connected purposes.
2. The Bill is the product of a comprehensive study by the Uganda Law Reform Commission in which all relevant stakeholders were consulted and several seminars and workshops held, and which takes full account of previous similar studies carried out in Uganda including—
  - (a) the Report on the Commission of Inquiry into the Marriage, Divorce and Status of Women (Kalema Report) 1965;
  - (b) the FIDA - U Report on the draft Domestic Relations Bill, 1980; and
  - (c) the Ministry of Women in Development, Culture and Youth Report on the draft 1980 Domestic Relations Bill, 1980 (W.I.D Working paper and Tororo Report) 1993.
3. In the report of the study from which the Bill emanated, the Commission made several recommendations which will result in a law that is fair and achieves social justice, addresses the issues of poverty; protects the human rights of all members of the family; is enforceable and accessible to the Uganda population and is in line with the Constitution and international legal obligations of Uganda.

4. The Bill seeks to provide for the several types of marriages obtaining in Uganda and seeks to consolidate and replace all the following existing family laws—
  - (a) the Customary Marriage (Registration) Act (Cap 248);
  - (b) the Divorce Act (Cap 249);
  - (c) the Hindu Marriage and Divorce Act (Cap 250);
  - (d) the Marriage Act (Cap 251); and
  - (e) the Marriage of Africans Act (Cap 253).
5. This Bill deals with civil marriages, Christian marriages, customary marriages, Hindu marriages and Bahai marriages.
6. The Bill in particular seeks to conform with the Constitution and specifically deals with the age of marriage, consent to marriage as required by article 31(3) of the Constitution, forms of marriage, solemnization of marriage, prohibited degrees of relationship for marriage, conditions for polygamy, cohabitation and its legal effect, marriage gifts, responsibility for maintenance, sexual rights, the offences of adultery and demanding the return of bride price and dowry; property rights and divorce; prescribing no fault divorce, otherwise known as irretrievable break down of marriage to apply to all forms of marriage to which the Bill relates.
7. The Bill also deals with widow inheritance and separation.
8. The Bill in sum gives effect to the principle in article 31(1) of the Constitution that men and women are entitled to equal rights in marriage, during marriage and at its dissolution.

HON. (DR.) E. KHIDDU MAKUBUYA (MP),  
*Attorney General and Minister of Justice and Constitutional Affairs.*