

19 of 1968

Marriage Amendment Act, 1968 (No. 19 of 1968)

Act

to amend sections 16, 19, 22 and 29 of the Marriage Act, 1961, so as:

- to provide that a notice of intention to marry published in a country outside the Republic or a special marriage licence issued in the territory of South-West Africa shall be regarded as having been published or issued in the Republic; and
- to validate certain marriages.

(English text signed by the Acting State President.)

(Assented to 14th March, 1968.)

Be it enacted by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Substitution of section 16 of Act 25 of 1961.

1. The following section is hereby substituted for section 16 of the Marriage Act, 1961 (hereinafter referred to as the principal Act):

"Banns and notice of intention to marry published outside the Union.

16. (1) Banns of marriage or a notice of intention to marry published in a country outside the Union shall for the purposes of this Act be regarded as having been published in the Union, but a marriage officer shall not solemnize any marriage in pursuance thereof unless there is produced to him the prescribed proof that such banns were or such notice of intention to marry was duly published according to the law of such country.

(2) The provisions of section 21 shall *mutatis mutandis* apply with reference to such banns or notice."

Amendment of section 19 of Act 25 of 1961.

2. Section 19 of the principal Act is hereby amended by the addition of the following subsection:

"(7) A special marriage licence issued in the territory of South-West Africa according to the law of such territory, shall for the purposes of this Act be regarded as a licence which has been issued in the Republic in terms of this Act."

Substitution of section 22 of Act 25 of 1961.

3. The following section is hereby substituted for section 22 of the principal Act:

"Irregularities in publication of banns or notice of intention to marry or in the issue of special marriage licence.

22. If in the case of any marriage solemnised before or after the commencement of this Act the provisions of this Act or, as the case may be, any prior law relating to the publication of banns or notice of intention to marry or to the issue of special marriage licences, or the applicable provisions of any law of a country outside the Union relating to the publication of banns or the publication of notice of intention to marry or the applicable provisions of any law of the territory of South-West Africa relating to the issue of special marriage licences, have not been strictly complied with owing to-

(a) an error committed in good faith by either of the parties to such marriage in interpreting those provisions; or

(b) any error, omission or oversight of any person who made any such publication or issued a special licence, but such marriage has in every other respect been solemnized in accordance with the provisions of this Act or, as the case may be, a former law, that marriage shall, provided there was no other lawful impediment thereto, be as valid and binding as it would have been if the said provisions had been strictly complied with."

Substitution of section 29 of Act 25 of 1961.

4. The following section is hereby substituted for section 29 of the principal Act:

"Time and place for and presence of parties and witnesses at solemnization of marriage and validation of certain marriages.

29. (1) A marriage officer may solemnize a marriage at any time on any day of the week but shall not be obliged to solemnize a marriage at any other time than between the hours of eight in the morning and four in the afternoon.

(2) A marriage officer shall solemnize any marriage in a church or other building used for religious service, or in a public office or private dwelling-house, with open doors and in the presence of the parties themselves and at least two competent witnesses, but the foregoing provisions of this subsection shall not be construed as prohibiting a marriage officer from solemnizing a marriage in any place other than a place mentioned therein if the marriage must be solemnized in such other place by reason of the serious or longstanding illness of, or serious bodily injury to, one or both of the parties.

(3) Every marriage-

(a) which was solemnized in the Orange Free State or the Transvaal before the commencement of this Act in any place other than a place appointed by a prior law as a place where for the purposes of such law a marriage shall be solemnized; or

(b) which by reason of the serious or longstanding illness of, or serious bodily injury to, one or both of the parties was solemnized before the commencement of the Marriage Amendment Act, 1968, in a place other than a place appointed by subsection (2) of this section as a place where for the purposes of this Act a marriage shall be solemnized, shall, provided such marriage has not been dissolved or declared invalid by a competent court and provided further that neither of the parties to such marriage has after such marriage and during the life of the other, already lawfully married another, be as valid and binding as it would have been if it had been solemnized in a place appointed therefor by the applicable provisions of the prior law or, as the case may be, of this Act.

(4) No person shall under the provisions of this Act be capable of contracting a valid marriage through any other person acting as his representative.".\

Short title.

5. This Act shall be called the Marriage Amendment Act, 1968.

Commencement

27 March 1968