

MARRIAGES ACT, 1884-1985 (CAP. 127)

PART 1 – CUSTOMARY MARRIAGES

PART 2 – MOHAMMEDAN MARRIAGES

PART 3 – CHRISTIAN AND OTHER MARRIAGES

Part One- Customary Marriages

- 1) Customary marriages contracted according to the relevant customary law **may** be registered under the Marriages Act.¹ Registration is done by one or both parties to the marriage applying to the Registrar of marriages in the district where the marriage was contracted. The application must be accompanied with a statutory declaration which among other things, must certify that the marriage was properly contracted in accordance with the applicable customary law.
- 2) Any person who has an objection to the registration of a customary marriage must file an objection at the district court in the district where the marriage was registered and not otherwise.
- 3) On the dissolution of a customary marriage that has been registered under the Marriages Act, the Registrar of marriages must be notified of the dissolution and the Registrar is bound by law to register the dissolution in the register of marriages. Any objections to a dissolution must also be filed with the Registrar.
- 4) A true copy of the entry in the register certified and personally signed by the Registrar of marriages is admissible in evidence as sufficient proof of the registration of the marriage or the dissolution of the marriage.
- 5) It is an offence to apply for registration or dissolution of a customary marriage when a person knows that the circumstances surrounding the contracting or dissolution of the marriage are unlawful.
- 6) The Intestate Succession Act, 1985 (PNDCL 111) applies to customary marriages, whether registered under this Act or not.

Part Two- Mohammedan Marriages

- 1) The District Chief Executive is the officer authorized to register Mohammedan marriages and divorces within his or her district in Ghana.
- 2) Mohammedan marriages and divorces are not valid unless registered.
- 3) Mohammedan marriages must be officiated by licenced priests and the Minister of Interior is the person who licenses Mohammedan priests.
- 4) Mohammedan marriages must be registered within a week from when they are contracted. Where a week elapses or the attendance of a signatory to the registration has become difficult, permission to register must be sought from a High Court.
- 5) Mohammedan divorces must be registered within a month from when they occurred.

Part Three- Christian and Other Marriages

¹ Note that registration of a customary marriage does not change the fact that it is a customary marriage.

General

- 1) A marriage under this part may be solemnized in 3 ways, by the authority of a Registrar's Certificate, a Marriage Officer's Certificate or a Special Certificate.
- 2) Registrars of marriage² are appointed at each district by the Minister of Interior.
- 3) Marriage Officers³ are appointed from ministers of religious bodies by the Minister of Interior. A marriage officer cannot be compelled to officiate a marriage that goes against the beliefs of the religious denomination for which he or she belongs.
- 4) A place of worship may be licenced for the purposes of celebrating marriages.

Registrar's Certificate

- 1) To obtain a registrar's certificate, the registrar must be notified in the appropriate form to be provided by the Registrar of marriages for free. The notice of marriage will be publicised for 3 months or until such time that the Registrar is satisfied, issues a certificate of notice of marriage after the expiration of 21 days.
- 2) Parties applying for a registrar's certificate must show that;
 - They are at least 21 years old, and if applicants are 18 up to 20 years, then they must show the consent of their parents in writing.
 - At least one of them has been resident in the relevant district for at least 15 days prior to the celebration of the marriage.
 - There is no familial relationship between them and that there is no other unlawful hindrance to the marriage.
 - Neither of them is married under custom to any other person.
- 3) The marriage by a registrar's certificate must be celebrated within 3 months from the date of notice of marriage otherwise the certificate elapses or becomes invalid and the celebration of marriage after this time frame renders the marriage void.

Marriage Officer's Certificate

- 1) Persons wishing to marry under the authority of a marriage officer's certificate must submit a form provided by law to notify the marriage officer of that intention at least 4 days before the first publication of banns of marriage is expected.
- 2) Marriage banns must be published on 3 consecutive Sundays or days of worship. Marriage banns must be made audibly (i.e., it must be heard clearly) before the congregation.
- 3) The dates of publication must be endorsed on the notice of banns which must be returned to the marriage officer.
- 4) After banns have been duly published, a marriage officer's certificate will be issued if there are no lawful impediments and the marriage must be celebrated within 3 months of the date of the last publication of banns. If the marriage is not celebrated within the time specified, all the publication of

² This marriage will ordinarily take place at the district court or the offices of the Registrar General, now the Registrar of Companies.

³ The marriage officer will ordinarily officiate the marriage in church. Some call this 'church marriage' or 'wedding'.

banns and all proceedings consequent on the banns will be rendered void and the parties will have to start the processes anew if they wish to get married.

Special Licence

- 1) A marriage can be celebrated lawfully under a special certificate issued by the registrar of marriages.
- 2) The special certificate dispenses with the requirements under the marriage officer's certificate and registrar's certificate. That is, the requirements for notices, banns and pre-licensed places for the celebration of marriages will be ignored.
- 3) The marriage under a special licence must however be celebrated by a licensed minister or a registrar of marriages in a location named in the certificate.
- 4) To secure a special licence, the registrar of marriages must be satisfied that there is no impediment to the marriage.

Objections

- 1) A person with valid reason why a marriage should not take place may object by entering a caveat with the registrar or marriage officer. A caveat is an act to stop the issuance of a certificate of marriage.
- 2) When a caveat is entered, the matter will be brought before a high court judge to be settled.

Consent

A person under 21 but at least 18 years of age needs the **consent in writing** of a parent or guardian to marry.

Celebration of Marriage

- 1) Marriages may be celebrated in a licensed place of worship and according to the rites or usages of marriage observed in the church, denomination or body.
- 2) The marriage is to be celebrated, with the doors open between the hours of 8am and 6pm in the presence of two or more witnesses besides the officiating minister and any other persons who may wish to attend the celebration.

Invalid marriages

- 1) Marriages where either party is already married under customary law to someone else.
- 2) Marriages that are celebrated in a place that is not licensed or authorized under a registrar's certificate.
- 3) Marriages under false names.
- 4) Marriages that are celebrated without a registrar's certificate of notice.
- 5) Marriages that are celebrated by unlicensed ministers or registrars.
- 6) Customary marriages that are contracted during the subsistence of a marriage under a registrar's or marriage officer's certificate.