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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS + 1c AVB 20c PRICE + 1c GST
BUITELANDS 30c ABROAD
POSVRY · POST FREE

VOL. 189]

KAAPSTAD, 27 MAART 1981

[No. 7506

CAPE TOWN, 27 MARCH 1981

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 624.

27 Maart 1981.

No. 624.

27 March 1981.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 45 van 1981: Huwelikswysigingswet, 1981.

No. 45 of 1981: Marriage Amendment Act, 1981.

Act No. 45, 1981

MARRIAGE AMENDMENT ACT, 1981

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Marriage Act, 1961, so as to grant to the Minister and certain officers the power to direct that a person who acted as marriage officer in respect of the marriage of persons who believed that such person was in fact a marriage officer, shall for the purposes of the Act be deemed to have been duly designated as a marriage officer; to extend the power to grant permission to certain persons to contract marriages; and to compel a marriage officer who solemnizes a marriage to complete a certificate on the prescribed form; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 3 March 1981.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

Substitution of
section 6 of
Act 25 of 1961.

1. The following section is hereby substituted for section 6 of the Marriage Act, 1961:

“Certain persons may in certain circumstances be deemed to have been marriage officers. 6. (1) Whenever any person has acted as a marriage officer during any period or within any area in respect of which he was not a marriage officer under this Act or any prior law, and the Minister or any officer in the public service authorized thereto by the Minister is satisfied that such person did so under the *bona fide* belief that he was a marriage officer during that period or within that area, he may direct in writing that such person shall for all purposes be deemed to have been a marriage officer during such period or within such area, duly designated as such under this Act or such law, as the case may be. 5 10 15

(2) Whenever any person acted as a marriage officer in respect of any marriage while he was not a marriage officer and both parties to that marriage *bona fide* believed that such person was in fact a marriage officer, the Minister or any officer in the public service authorized thereto by him may, after having conducted such inquiry as he may deem fit, in writing direct that such person shall for all purposes be deemed to have been duly designated as a marriage officer in respect of that marriage. 20 25

[(2)] (3) Any marriage solemnized **[during such period or within such area]** by any person who is in terms of **[subsection (1)]** this section to be deemed to have been duly designated as a marriage officer **[in**

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ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Huwelikswet, 1961, ten einde aan die Minister en sekere beamptes die bevoegdheid te verleen om te gelas dat iemand wat as huweliksbevestiger opgetree het ten opsigte van die huwelik van persone wat gemeen het dat so iemand inderdaad 'n huweliksbevestiger was, vir die doeleindes van die Wet geag word behoorlik as huweliksbevestiger benoem te gewees het; die bevoegdheid om aan sekere persone verlof te verleen om huwelike aan te gaan, uit te brei; en 'n huweliksbevestiger wat 'n huwelik voltrek, te verplig om 'n sertifikaat op die voorgeskrewe vorm te voltooi; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 Maart 1981.)

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 6 van die Huwelikswet, 1961, word hierby deur die volgende artikel vervang:

Vervanging van
artikel 6 van
Wet 25 van 1961.

5 „Sekere persone word in sekere omstandighede geag huweliksbevestigers te gewees het.

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6. (1) Wanneer iemand as huweliksbevestiger opgetree het gedurende 'n tydperk of in 'n gebied ten opsigte waarvan hy nie kragtens hierdie Wet of 'n vorige wet 'n huweliksbevestiger was nie, en die Minister, of 'n beampte in die Staatsdiens deur die Minister daartoe gemagtig, oortuig is dat so iemand aldus opgetree het terwyl hy te goeder trou gemeen het dat hy 'n huweliksbevestiger gedurende dié tydperk of in dié gebied was, kan hy skriftelik gelas dat so iemand vir alle doeleindes geag word 'n huweliksbevestiger gedurende dié tydperk of in dié gebied te gewees het en behoorlik as sulks kragtens hierdie Wet of so 'n vorige wet, na gelang van die geval, benoem te gewees het.

20 (2) Wanneer iemand ten opsigte van 'n huwelik as huweliksbevestiger opgetree het terwyl hy nie 'n huweliksbevestiger was nie, en altwee partye by daardie huwelik te goeder trou gemeen het dat so iemand inderdaad 'n huweliksbevestiger was, kan die Minister, of 'n beampte in die Staatsdiens deur hom daartoe gemagtig, nadat hy die ondersoek wat hy goetvind, ingestel het, skriftelik gelas dat so iemand vir alle doeleindes geag word behoorlik as huweliksbevestiger ten opsigte van daardie huwelik benoem te gewees het.

30 **[(2)] (3)** 'n Huwelik wat **[gedurende so 'n tydperk of in so 'n gebied]** voltrek is deur iemand wat ingevolge **[subartikel (1)]** hierdie artikel geag moet word behoorlik as huweliksbevestiger **[ten opsigte**

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respect thereof] shall, provided such marriage was in every other respect solemnized in accordance with the provisions of this Act or any prior law, as the case may be, and there was no lawful impediment thereto, be as valid and binding as it would have been if such person had been duly designated as a marriage officer [in respect of such period or such area].

[(3)] (4) Nothing in [subsection (1)] this section contained shall be construed as relieving any person in respect of whom a direction has been issued thereunder, from the liability to prosecution for any offence committed by him.

(5) Any person who acts as a marriage officer in respect of any marriage, shall complete a certificate on the prescribed form in which he shall state that at the time of the solemnization of the marriage he was in terms of this Act or any prior law entitled to solemnize that marriage.”.

2. The following section is hereby substituted for section 26 of the Marriage Act, 1961:

“Prohibition of marriage of persons under certain ages.

26. (1) No boy under the age of 18 years and no girl under the age of 15 years shall be capable of contracting a valid marriage except with the written permission of the Minister or any officer in the public service authorized thereto by him, which he may grant in any particular case in which he considers such marriage desirable: Provided that such permission shall not relieve the parties to the proposed marriage from the obligation to comply with all other requirements prescribed by law: Provided further that such permission shall not be necessary if by reason of any such other requirement the consent of a judge or court having jurisdiction in the matter is necessary and has been granted.

(2) If any person referred to in subsection (1) who was not capable of contracting a valid marriage without the written permission of the Minister or any officer in the public service authorized thereto by him, in terms of this Act or a prior law, contracted a marriage without such permission and the Minister or such officer, as the case may be, considers such marriage to be desirable and in the interests of the parties in question, he may, provided such marriage was in every other respect solemnized in accordance with the provisions of this Act, or, as the case may be, any prior law, and there was no other lawful impediment thereto, direct in writing that it shall for all purposes be a valid marriage.

(3) If the Minister or any officer in the public service authorized thereto by him so directs it shall be deemed that he granted written permission to such marriage prior to the solemnization thereof.”.

3. This Act shall be called the Marriage Amendment Act, 1981, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Substitution of section 26 of Act 25 of 1961, as amended by section 9 of Act 51 of 1970.

Short title and commencement.

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daarvan] benoem te gewees het, is, mits die huwelik in elke ander opsig voltrek is ooreenkomstig die bepalings van hierdie Wet of 'n vorige wet, na gelang van die geval, en daar regtens geen beletsel daarteen was nie, net so geldig en bindend as wat dit sou gewees het indien so iemand behoorlik as huweliksbevestiger **[ten opsigte van dié tydperk of dié gebied]** benoem was.

[(3)] (4) Die bepalings van **[subartikel (1)]** hierdie artikel word nie so uitgelê nie dat dit iemand ten opsigte van wie 'n bevel daarkragtens uitgereik is, vrywaar teen vervolging weens 'n misdryf deur hom gepleeg.

(5) Iemand wat as huweliksbevestiger ten opsigte van 'n huwelik optree, moet 'n sertifikaat op die voorgeskrewe vorm voltooi waarin hy verklaar dat hy ten tyde van die voltrekking van die huwelik uit hoofde van die bepalings van hierdie Wet of 'n vorige Wet bevoeg was om daardie huwelik te voltrek."

2. Artikel 26 van die Huwelikswet, 1961, word hierby deur die volgende artikel vervang:

Vervanging van artikel 26 van Wet 25 van 1961, soos gewysig deur artikel 9 van Wet 51 van 1970.

„Verbod op huwelik van persone benede sekere leeftye. 26. (1) Geen seun benede die ouderdom van 18 jaar en geen meisie benede die ouderdom van 15 jaar is bevoeg om 'n geldige huwelik aan te gaan nie, behalwe met skriftelike verlof van die Minister, of 'n beamppte in die Staatsdiens deur hom daartoe gemagtig, wat hy kan verleen in 'n bepaalde geval waar hy so 'n huwelik as wenslik beskou: Met dien verstande dat sodanige verlof die partye by die voorgenome huwelik nie vrystel nie van die verpligting om aan alle ander regsvoorskrifte te voldoen: Met dien verstande voorts dat sodanige verlof nie nodig is nie indien weens sodanige ander voorskrif die toestemming van 'n regter of hof met regsbevoegdheid ten opsigte van die aangeleentheid nodig is en verleen is.

(2) Indien iemand in subartikel (1) bedoel wat nie bevoeg was om 'n geldige huwelik sonder die skriftelike verlof van die Minister of 'n beamppte in die Staatsdiens deur hom daartoe gemagtig, ingevolge hierdie Wet of 'n vorige wet aan te gaan nie, 'n huwelik sonder sodanige verlof aangegaan het, en die Minister of bedoelde beamppte, na gelang van die geval, die huwelik as wenslik en in belang van die betrokke partye beskou, kan hy, mits dié huwelik in elke ander opsig ooreenkomstig die bepalings van hierdie Wet, of na gelang van die geval, 'n vorige wet voltrek is, en daar regtens geen ander beletsel daarteen was nie, skriftelik gelas dat dit vir alle doeleindes 'n geldige huwelik is.

(3) Indien die Minister of 'n beamppte in die Staatsdiens deur hom daartoe gemagtig, aldus gelas, word daar geag dat hy vóór die voltrekking van die huwelik skriftelike verlof daartoe verleen het."

3. Hierdie Wet heet die Huwelikswysigingswet, 1981, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel en inwerkingtreding.

