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MARRIAGE AMENDMENT BILL, 2006

GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Marriage Act, 1961 so as to insert certain definitions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 25 of 1961

1. Section 1 of the Marriage Act, 1961 (Act No. 25 of 1961), hereinafter referred to as "the principal Act", is hereby amended by—

(a) the insertion after the definition of "magistrate" of the following definition:

"**'marriage'** means the voluntary union of two persons concluded in terms of this Act to the exclusion of all others;" and

(b) the insertion after the definition of "prior law" of the following definition:

"**'spouse'** means the lawful partner of a person in a valid marriage concluded in terms of this Act and any reference to spouse in any other law shall have the same meaning;"

Amendment of section 30 of Act 25 of 1961, as amended by section 1 of Act No. 12 of 1973

5. Section 30 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) In solemnizing any marriage any marriage officer designated under section 3 may follow the marriage formula usually observed by his religious denomination or organization if such marriage formula has been approved by the Minister, but if such marriage formula has not been approved by the Minister, or in the case of any other marriage officer, the marriage officer concerned shall put the following questions to each of the parties separately, each of whom shall reply thereto in the affirmative:

“Do you, A.B., declare that as far as you know there is no lawful impediment to your proposed marriage with C.D here present, and that you call all here present to witness that you take C.D. as your lawful wife (or husband) or spouse?”,

and thereupon the parties shall give each other the right hand and the marriage officer concerned shall declare the marriage solemnized in the following words:

“I declare that A.B. and C.D. here present have been lawfully married.”.

Substitution of word in Act 25 of 1961

6. The principal Act is hereby amended by the substitution for the word “Union”, wherever it occurs, of the word “Republic”.

Transitional provisions

7. The provisions of this Act shall not affect—

- (a) anything done or omitted in terms of the principal Act before the date of commencement of this Act; and

Amendment of section 3 of Act 25 of 1961

2. Section 3 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister and any officer in the public service authorised thereto by him may designate any minister of religion of, or any person holding a responsible position in, any religious denomination or organization to be, so long as he is such a minister or occupies such position, a marriage officer for the purpose of solemnizing marriages according to **[Christian, Jewish or Mohammedan rites or the rites of any Indian religion]** the rites of the religious denomination or organization concerned.”

Amendment of section 12 of Act 25 of 1961, as amended by section 1 of Act No. 112 of 1990 and section 1(2) of Act No. 114 of 1991

3. Section 12 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) each of the parties in question produces to the marriage officer his or her identity document issued under the provisions of the **[Identification Act, 1986 (Act No. 72 of 1986)]** Identification Act, 1997 (Act No. 68 of 1997); or”.

Amendment of section 29A of Act 25 of 1961, as inserted by section 33 of Act No. 51 of 1992

4. Section 29A of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The marriage officer shall forthwith transmit the marriage register and records concerned, as the case may be, to a regional or district representative designated as such under **[section 21(1)]** section 4 of the **[Identification Act, 1986 (Act No. 72 of 1986)]** Identification Act, 1997 (Act No. 68 of 1997); or”.

- (b) anything done under the provisions of the principal Act prior to the commencement of this Act, which can be done under the principal Act as amended by this Act, shall be deemed to have been done under the principal Act as amended by this Act.

Short title and commencement

8. This Act is called the Marriage Amendment Act, 2006, and comes into operation on a date determined by the President by proclamation in the *Gazette*.