

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

Marriage.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Justice, at the date of its preparation for inclusion.

References in and in relation to this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Justice;

“the Department”—should be read as references to the Department of Justice.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

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¹Subsidiary legislation has not been up-dated.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

Marriage Act.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

Marriage Act.

Being an Act relating to marriage.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“Ambassador” includes Minister, Head of Mission and Chargé d’Affaires;

“authorized celebrant” means—

- (a) a minister of religion registered under Section 28(1); or
- (b) the Registrar-General; or
- (c) a person authorized by the Minister under Section 34(2) to solemnize marriages;

“the commencement date” means 21 January 1965 (being the date of commencement of the pre-Independence *Marriage Act* 1963);

“consul” includes a consul-general, vice-consul, pro-consul and consular agent;

“consular office” means an office of consul or trade commissioner;

“consular officer” means—

- (a) a person appointed to hold, or act in, a consular office of the Government in a place outside the country; or
- (b) a person appointed to hold, or act in, a consular office of the Government of Australia in a place outside Papua New Guinea and Australia;

“diplomatic office” means an office of—

- (a) Ambassador; or
- (b) High Commissioner; or
- (c) Commissioner; or
- (d) counsellor, secretary or attaché at an embassy, High Commissioner’s office, legation or other post;

“diplomatic officer” means—

- (a) a person appointed to hold, or act in, a diplomatic office of the Government in a place outside the country; or
- (b) a person appointed to hold, or act in, a diplomatic office of the Government of Australia in a place outside Papua New Guinea and Australia;

“guardian” includes a guardian by custom, and where under relevant custom, there is more than one guardian, means the principal guardian;

“Magistrate” means a Magistrate of a District Court;

"minister of religion" means—

- (a) a person recognized by a religious body or a religious organization as having authority to solemnize marriages in accordance with the rites or customs of the body or organization; and
- (b) in relation to a religious body or a religious organization in respect of which Paragraph (a) is not applicable, a person nominated by—
 - (i) the head or the governing authority in the country of the body or organization; or
 - (ii) such other person or authority acting on behalf of the body or organization as is prescribed,

to be an authorized celebrant for the purposes of this Act;

"minor" means a person who has not attained the age of 21 years;

"overseas country" means a country or place other than Papua New Guinea or a part of the Queen's dominions;

"prescribed authority", in relation to a marriage proposed to be solemnized in the country, means a person appointed by the Head of State, acting on advice, to be a prescribed authority;

"the Queen's dominions" includes a British protectorate and a British protected State;

"recognized denomination" means a religious body or a religious organization declared under Section 26 to be a recognized denomination for the purposes of this Act;

"the Registrar-General" includes a Deputy Registrar-General;

"the regulations" means any regulations made under this Act;

"this Act" includes the regulations.

(2) Where—

(a) a marriage is solemnized in the presence of a person in whose presence a marriage may, in accordance with this Act, be lawfully solemnized; and

(b) he consents to the marriage being solemnized in his presence,

he shall be deemed, for the purposes of this Act, to solemnize the marriage.

2. Application.

This Act does not affect the validity or invalidity of a marriage that took place before the commencement date.

PART II.—CUSTOMARY MARRIAGES¹.

3. Customary marriages.

(1) Notwithstanding the provisions of this Act or of any other law, a native, other than a native who is a party to a subsisting marriage under Part V, may enter, and shall be deemed always to have been capable of entering, into a customary marriage in accordance with the custom prevailing in the tribe or group to which the parties to the marriage or either of them belong or belongs.

(2) Subject to this Act, a customary marriage is valid and effectual for all purposes.

¹ As to the term "native" throughout this Part, see the pre-Independence *Ordinances Interpretation Act 1949*, Section 6(1) and the *Interpretation Act*, Section 98.

4. Religious rites.

Notwithstanding the provisions of this Act or of any other law, religious rites or ceremonies may be performed in connexion with a customary marriage.

5. Protection of women.

(1) A Magistrate of a Local Court may, by order, forbid the marriage of a woman in accordance with custom, or purportedly in accordance with custom, where the woman objects to the marriage or purported marriage and—

- (a) excessive pressure has been brought to bear to persuade her to enter into the marriage; or
- (b) in the circumstances it would be a hardship to compel her to conform to custom.

(2) A person who marries, or purports to marry, a woman in contravention of an order under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

(3) Where a marriage or purported marriage by custom has been entered into in contravention of this section, a Local Court may, on application made by or on behalf of the woman at the first reasonably practicable opportunity after the marriage or purported marriage, order that the marriage or purported marriage be annulled as from the date of the order, and may make such further or other order in the premises, whether to adjust property rights as though the marriage were dissolved in accordance with custom, or otherwise, as to it seems just.

PART III.—MARRIAGEABLE AGE AND MARRIAGES OF MINORS.

6. Application of Part III.

(1) This Part applies, notwithstanding any common law rule of private international law, in relation to marriages under Division V.2.

(2) Section 7 and, so far as they have application in relation to that section, Sections 13 and 14 apply in relation to—

- (a) marriages to which Division V.3 applies; and
- (b) the marriage of a person domiciled in the country, wherever it takes place.

(3) This Part does not apply to customary marriages.

7. Marriageable age.

(1) Subject to this section—

- (a) a male person is of marriageable age if he has attained the age of 18 years; and
- (b) a female person is of marriageable age if she has attained the age of 16 years.

(2) A male person who has attained the age of 16 years but has not attained the age of 18 years, or a female person who has attained the age of 14 years but has not attained the age of 16 years, may apply to a Judge or Magistrate for an order authorizing him or her to marry a particular person of marriageable age.

(3) The Judge or Magistrate shall hold an inquiry into the relevant facts and circumstances and, if he is satisfied that—

(a) the applicant has attained—

(i) in the case of a male person—the age of 16 years; or

(ii) in the case of a female person—the age of 14 years; and

(b) the circumstances of the case are so exceptional and unusual as to justify the making of the order,

he may, in his discretion, make the order sought, but otherwise he shall refuse the application.

(4) Subject to Subsection (7), where a Judge or Magistrate has made an order under Subsection (3) the person on whose application the order was made is, in relation to his or her marriage to the other person specified in the order, but not otherwise, of marriageable age.

(5) Where a Judge or a Magistrate to whom an application is made under Subsection (2) is satisfied that the matter could more properly be dealt with by a Judge or a Magistrate sitting at a place nearer the place where the applicant ordinarily resides, he may, in his discretion, refuse to proceed with the hearing of the application.

(6) For the purposes of Section 14, a refusal under Subsection (5) shall not be deemed to be a refusal of the application.

(7) Where an order is made under Subsection (3) and the marriage to which the order relates does not take place within three months after the date of the order, the order ceases to have effect.

8. Consent to marriage of minor.

(1) Subject to this Part, where a party to an intended marriage—

(a) is a minor; and

(b) has not previously been married,

the marriage shall not be solemnized, unless there is produced to the person by whom or in whose presence the marriage is solemnized—

(c) in respect of each person whose consent is required by this Act to the marriage of the minor (other than a person to whom Paragraph (d) is applicable)—

(i) the written consent of the person, duly witnessed and dated not earlier than three months before the date on which the marriage is solemnized or, in such cases as are prescribed, such other evidence that the consent of that person to the intended marriage has been given not earlier than such time as the regulations declare to be sufficient for the purposes of this section; or

(ii) an effective written consent of a Judge or Magistrate under this Part in place of the consent of that person; or

(d) in respect of a person whose consent to the marriage of the minor has been dispensed with by a prescribed authority—the written dispensation signed by the prescribed authority.

(2) For the purposes of Subsection (1), the consent of a person is duly witnessed if his signature was witnessed—

- (a) in the case of a consent signed in Papua New Guinea—by an authorized celebrant, Commissioner for Declarations, justice, lawyer, medical practitioner or commissioned officer of the Police Force; or
- (b) in the case of a consent signed in Australia—by a person who is a competent witness to a consent under Section 13 of the *Marriage Act* 1961 of Australia, as in force from time to time; or
- (c) in the case of a consent signed in any other place—by a diplomatic officer or consular officer, a judge of a court of that place, a magistrate or justice of the peace of or for that place, or a notary public.

(3) A person shall not subscribe his name as a witness to the signature of a person to a consent to a marriage unless—

- (a) he is satisfied on reasonable grounds as to the identity of the person; and
- (b) the consent bears the date on which he subscribes his name as a witness.

(4) A person shall not solemnize a marriage if he has reason to believe that—

- (a) a person, whose written consent to the marriage of one of the parties is or has been produced for the purposes of this section, has revoked his consent; or
- (b) the signature of a person to a consent produced for the purposes of this section is forged or has been obtained by fraud; or
- (c) a consent produced for the purposes of this section has been altered in a material particular without authority; or
- (d) a dispensation with the consent of a person that has been produced in relation to the marriage has ceased to have effect.

9. Persons whose consent is required.

(1) The person or persons whose consent is required by this Act to the marriage of a minor shall, subject to this section, be ascertained by reference to Schedule 1 according to the facts and circumstances existing in relation to the minor.

(2) For the purposes of Schedule 1—

- (a) a minor is an adopted child if he was adopted under—
 - (i) the law of Papua New Guinea; or
 - (ii) the law of any other place; and
- (b) a minor born illegitimate whose parents subsequently married each other is the legitimate child of his parents.

(3) Where an Act provides that a person specified in the Act is to be, or is to be deemed to be, the guardian of a minor, to the exclusion of a parent or other guardian of the minor, that person is the person whose consent is required by this Act to the marriage of the minor.

(4) Where, under a law, a person specified in the law is, or is to be deemed to be, a guardian of a minor in addition to the parents or other guardian of the minor, the consent of that person is required to the marriage of the minor in addition to the consent of the person or persons ascertained in accordance with Schedule 1.

10. Dispensing with consent.

(1) Subject to this section, a prescribed authority may, on written application by a minor, dispense with the consent of a person to a proposed marriage of the minor in a case where the prescribed authority—

- (a) is satisfied that it is impracticable, or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable, to ascertain his views with respect to the proposed marriage; and
- (b) has no reason to believe that he would refuse his consent to the proposed marriage; and
- (c) has no reason to believe that facts may exist by reason of which it could reasonably be considered improper that the consent should be dispensed with.

(2) An application under Subsection (1)—

- (a) shall be supported by a statutory declaration by the applicant setting out the facts and circumstances on which the application is based; and
- (b) may be supported by a statutory declaration by some other person.

(3) The applicant shall state in his statutory declaration whether he has made any previous applications under Subsection (1) that have been refused, and if so the date on which each such application was refused.

(4) This section does not authorize a prescribed authority to dispense with the consent of a person to a marriage of a minor where any other person whose consent to the marriage is required by this Act has refused to give his consent, unless a Judge or Magistrate has given his consent under this Part in place of the consent of the other person.

(5) For the purposes of this section, the fact that a person does not reside in, or is absent from, the country does not of itself make it impracticable to ascertain his views.

11. Consent by Magistrate.

(1) Where, in relation to a proposed marriage of a minor—

- (a) a person whose consent to the marriage is required by this Act refuses to consent to the marriage; or
- (b) an application by the minor under Section 10 for dispensation with the consent of such a person is refused,

the minor may apply to a Magistrate for the consent of the Magistrate to the marriage in place of the consent of that person.

(2) Subject to Subsection (3), a Magistrate to whom application is made under Subsection (1) shall hold an inquiry into the relevant facts and circumstances and, if he is satisfied—

- (a) in a case to which Subsection (1)(a) applies—that the person who has refused to consent to the marriage has refused his consent unreasonably; or
- (b) in a case to which Subsection (1)(b) applies—that, having proper regard for the welfare of the minor, it would be unreasonable for him to refuse his consent to the proposed marriage,

he may give his consent to the marriage in place of the consent of the person in relation to whose consent the application is made.

(3) Where a Magistrate to whom an application is made under Subsection (1) is satisfied that the matter could more properly be dealt with by a Magistrate sitting at a place,

nearer the place where the applicant ordinarily resides, he may, in his discretion, refuse to proceed with the hearing of the application.

(4) For the purposes of Sections 12 and 14 a refusal under Subsection (3) shall not be deemed to be a refusal of the application.

(5) Where a Magistrate grants an application under Subsection (1)—

(a) he shall not issue his consent to the marriage before the expiration of the time prescribed for the purposes of Section 12; and

(b) if, within that time, a request for a re-hearing is made under that section he shall not issue his consent unless the request is withdrawn.

(6) Where a Magistrate gives his consent to the marriage of a minor in place of the consent of a person who has refused to consent to the marriage, the Magistrate may also, on application by the minor, give his consent in place of the consent of any other person if he is satisfied that it is impracticable, or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable, to ascertain his views with respect to the proposed marriage.

(7) For the purposes of Subsection (6), the fact that a person does not reside in, or is absent from, the country does not of itself make it impracticable to ascertain his views.

12. Re-hearing of applications.

(1) Where—

(a) an application under Section 11(1) or (6) is refused; or

(b) an application under Section 11(1) is granted,

the applicant or the person in relation to whose consent the application was made may, in the prescribed manner and within the prescribed time, request that the application be re-heard by a Judge, and a Judge may re-hear the application.

(2) Section 11(2), (6) and (7) apply, as far as they are applicable, in relation to the re-hearing of an application made under that section, and for the purpose of such a re-hearing references to the Magistrate dealing with an application shall be read as references to the Judge re-hearing the application.

13. Procedure at inquiries.

(1) In conducting an inquiry under this Part, a Judge or a Magistrate—

(a) is not bound to observe strict legal procedure or apply technical rules of evidence, but shall admit and consider such relevant evidence as is available (including hearsay); and

(b) shall give to the applicant and, so far as is reasonably practicable, any person whose consent to the marriage of the applicant is required by this Act an opportunity of being heard.

(2) An inquiry by a Judge or a Magistrate under this Part shall be held in private.

(3) An applicant or other person who is given an opportunity of being heard at an inquiry under this Part may be represented by a lawyer or agent.

14. Restrictions on certain applications.

(1) Where, in relation to a proposed marriage of a minor to a particular person—

(a) an application under Section 7(2) or 11 has been refused by a Judge or Magistrate; or

(b) an application under Section 10 has been refused by a prescribed authority, a further application under the same provision or, in the case of a refused application under Section 7(2), or under Section 12, by the same person in relation to the proposed marriage shall not be considered by a prescribed authority, Judge or Magistrate within six months after the refusal of the application, unless the applicant satisfies the prescribed authority, Judge or Magistrate to whom the further application is made that there has been a substantial change in the relevant facts or circumstances since the refusal of the former application.

(2) The fact that an application is heard or dealt with in contravention of Subsection (1) does not affect the validity of an order made, or the effectiveness of a consent given, on the application or the re-hearing of the application, or make ineffective a dispensation with a consent granted on the application.

15. Effect of consent of Judge or Magistrate.

Subject to Section 16, where a Judge or a Magistrate gives his consent to the marriage of a minor in place of the consent of another person, his consent operates, for the purposes of this Act, as the consent of that other person.

16. Period of effect of consent or dispensation.

(1) A consent to a marriage given by a Judge or a Magistrate in place of the consent of another person ceases to have effect if the marriage does not take place within three months after the date of the consent.

(2) A dispensation with the consent of a person to a marriage ceases to have effect if—

(a) the marriage does not take place within three months after the date of the dispensation; or

(b) before the marriage takes place, the person whose consent has been dispensed with notifies, by writing under his hand or in any other prescribed manner, the person to whom notice of the intended marriage has been given under this Act that he does not consent to the marriage.

(3) Where a consent by a Judge or a Magistrate, or a dispensation with the consent of a person by a prescribed authority, has ceased to have effect, the provisions of this Act apply as if the consent had not been given or dispensed with, as the case may be.

PART IV.—VOID AND VOIDABLE MARRIAGES.

17. Void marriages.

(1) Subject to Subsection (2) and to Sections 20 and 21, a marriage is void if—

(a) either of the parties is, at the time of the marriage, lawfully married to some other person; or

(b) the parties are within the prohibited degrees of consanguinity or affinity; or

(c) the marriage is not a valid marriage under the law of the place where the marriage takes place, by reason of a failure to comply with the requirements of the law of that place with respect to the form of solemnization of marriages; or

(d) the consent of either of the parties is not a real consent because—

(i) it was obtained by duress or fraud; or

(ii) the party is mistaken as to the identity of the other party, or as to the nature of the ceremony performed; or

(iii) the party is mentally incapable of understanding the nature of the marriage contract; or

(d) either of the parties is not of marriageable age.

(2) Subsection (1)(d) does not apply in relation to—

(a) a marriage that was solemnized under the *Marriage (Overseas) Act* 1955 of Australia, as in force from time to time, including a marriage to which Section 24 of that Act applies; or

(b) a marriage that was solemnized under Part V. of the *Marriage Act* 1961 of Australia, as in force from time to time, including a marriage to which Section 83 of that Act applies; or

(c) any other marriage recognized in Australia by virtue of either of those Acts or the regulations made under either of those Acts.

18. Prohibited degrees of consanguinity and affinity.

(1) The prohibited degrees of consanguinity and affinity are set out in Schedule 2.

(2) Subject to Subsection (3), a marriage solemnized before the commencement date is not voidable on the ground of consanguinity or affinity of the parties unless the parties were, at the time of the marriage, within one of the degrees of consanguinity or affinity set out in Schedule 2.

(3) Subsection (2) does not make voidable a marriage that would not, apart from that subsection, be voidable.

19. Prohibited degrees in respect of relationships by adoption.

(1) In this section, "adopted child" means—

(a) a person adopted under a law—

(i) at any time in force in the area of Papua New Guinea; or

(ii) of a State or Territory of Australia; or

(b) a person adopted under the law of any other place, if the adoption of the person would be recognized as valid under the law of Papua New Guinea.

(2) Subject to this section, Sections 17 and 18 and Schedule 2 have effect as if a relationship of consanguinity specified in that Schedule included a relationship traced through, or to, a person who is or was an adopted child.

(3) For the purposes of Subsection (2), the relationship between an adopted child and his adoptive parent, or each of his adoptive parents, shall be deemed to be or to have been the natural relationship of child and parent.

(4) Subsections (2) and (3) do not make it lawful for a person to marry a person whom he could not lawfully have married if those subsections had not been enacted.

(5) For the purposes of this section—

(a) a person who has at any time been adopted by another person shall be deemed to remain his adopted child notwithstanding that—

(i) any order by which the adoption was effected has been annulled, cancelled or discharged; or

(ii) the adoption has for any other reason ceased to be effective; and

- (b) a person who has been adopted on more than one occasion shall be deemed to be the adopted child of each person by whom he has been adopted.

20. Marriage within prohibited degrees of affinity.

(1) Where two persons who are within the prohibited degrees of affinity wish to marry one another, they may apply, in writing, to a Judge for permission to do so.

(2) If the Judge is satisfied that the circumstances of the particular case are so exceptional as to justify the granting of the permission sought, he may, by order, permit the applicants to marry one another.

(3) Where persons marry under a permission granted under Subsection (2), the validity of their marriage is not affected by the fact that they are within the prohibited degrees of affinity.

21. Marriage within prohibited degrees by reason of section 19.

(1) Where two persons who are within the prohibited degrees of consanguinity set out in Schedule 2 by reason only of the operation of Section 19 wish to marry one another, they may apply, in writing, to a Judge for permission to do so.

(2) Subject to Subsection (3), if the Judge is satisfied that the circumstances of the particular case are so exceptional as to justify the granting of the permission sought, he may, by order, permit the applicants to marry one another.

(3) This section does not authorize the granting of permission to marry to persons the relationship between whom is, by reason of the operation of Section 19, that of parent and child or brother and sister.

(4) Where persons marry under a permission granted under this section, the validity of their marriage is not affected by the fact that they are within the prohibited degrees of consanguinity by reason of the operation of Section 19.

22. Voidable marriages.

(1) For the purposes of Subsection (2), "mental defective" means a person who, owing to an arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, requires oversight, care or control for his own protection or for the protection of others, and is, by reason of that fact, unfitted for the responsibilities of marriage.

(2) Subject to this Act, a marriage, not being a marriage that is void, is voidable where, at the time of the marriage—

- (a) either party to the marriage is incapable of consummating the marriage; or
- (b) either party to the marriage is—
 - (i) of unsound mind; or
 - (ii) a mental defective; or
- (c) either party to the marriage is suffering from a venereal disease in a communicable form; or
- (d) the wife is pregnant by a person other than the husband.

23. Validity, etc., of certain marriages.

(1) Except as expressly provided in this Part, this Part does not affect the validity or invalidity of a marriage that took place before the commencement date.

(2) Subject to Section 24, no provision of this Act affects the validity or invalidity of a marriage where it would not be in accordance with the common law rules of private international law to apply that provision in relation to the marriage.

24. Application of prohibited degrees.

(1) The provisions of Sections 17, 18 and 20 relating to the prohibited degrees of consanguinity and affinity and Schedule 2 apply in relation to marriages in the country, other than marriages to which Division V.3 applies, wherever the parties are domiciled or intend to make their home.

(2) Subsection (1) does not prevent the application of any common law rule of private international law in relation to a marriage or purported marriage that takes place outside the country otherwise than under Part V. of the *Marriage Act* 1961 of Australia, as in force from time to time.

PART V.—SOLEMNIZATION OF MARRIAGES.

Division 1.—Authorization of Ministers of Religion and other Persons as Celebrants.

25. Interpretation of Division 1.

(1) In this Division, a reference to a register shall be read as a reference to a register kept for the purposes of this Division.

(2) For the purposes of this Division, a person who—

(a) is serving outside the country as a member of the Defence Force; and

(b) was, immediately before he became a member, ordinarily resident in the country,

shall be deemed, while he is so serving, to be ordinarily resident in the country.

26. Declaration of recognized denominations.

The Minister may, by notice in the National Gazette, declare a religious body or a religious organization to be a recognized denomination for the purposes of this Act.

27. Qualifications for registration.

Subject to this Division, a person is entitled to registration under this Division if—

(a) he is a minister of religion of a recognized denomination; and

(b) he is nominated for registration under this Division by that denomination; and

(c) he is ordinarily resident in the country; and

(d) he has attained the age of 21 years.

28. Registration.

(1) Subject to this Division, the Registrar-General shall, on application in accordance with the regulations by a person ordinarily resident in the country who is entitled to registration under this Division, register him under this Division.

(2) The Registrar-General may refuse to register a person under this Division if, in the opinion of the Registrar-General—

(a) there are already registered under this Division sufficient ministers of religion of the denomination to which the applicant belongs to meet the needs of the denomination in the locality in which the applicant resides; or

(b) the applicant is not a fit and proper person to solemnize marriages; or

- (c) the applicant is unlikely to devote a substantial part of his time to the performance of functions generally performed by a minister of religion.

29. Effect of registration.

A minister of religion who is registered under this Division may solemnize marriages at any place in the country.

30. Cancellation of registration.

(1) Subject to this section, the Registrar-General shall cancel the registration of a person under this Division if he is satisfied that—

- (a) he has requested that his registration be cancelled; or
- (b) he has died; or
- (c) the denomination by which he was nominated for registration, or in respect of which he is registered, no longer desires that he be registered under this Division or has ceased to be a recognized denomination; or
- (d) he—
 - (i) has been guilty of such contravention of this Act as to show him not to be a fit and proper person to be registered under this Division; or
 - (ii) has been making a business of solemnizing marriages for the purpose of profit or gain; or
 - (iii) is not a fit and proper person to solemnize marriages; or
- (e) he is, for any other reason, not entitled to registration under this Division.

(2) The Registrar-General shall not, under this section, cancel the registration of a person on a ground specified in Subsection (1)(d) or (e) unless he has first given to him, in accordance with the regulations, at least two months' written notice of his intention to do so on that ground.

(3) In a notice under Subsection (2), the Registrar-General shall call on the person to whom it is given to show cause, within the period specified in the notice, why his registration under this Division should not be cancelled.

(4) The Registrar-General shall consider any representations made by the person to whom a notice under Subsection (2) is given within the period specified in the notice.

(5) A person to whom a notice under Subsection (2) is given shall not solemnize a marriage until—

- (a) he is notified by the Registrar-General that the Registrar-General has decided not to cancel his registration under this Division; or
- (b) the Minister has directed, under Section 31, that his registration under this Division be restored.

31. Review of refusal or cancellation of registration.

(1) Where the Registrar-General—

- (a) refuses to register a person who has applied for registration under this Division; or
- (b) cancels under Section 30 the registration of a person,

the person may, within one month after the refusal or cancellation, as the case may be, or within such further time as the Minister allows, by writing under his hand request the Minister to review the refusal or cancellation.

(2) The Minister shall consider the matter and, after making such investigations as he thinks proper, may—

- (a) confirm the refusal or cancellation; or
- (b) direct that—
 - (i) the person concerned be registered; or
 - (ii) the registration under this Division of the person concerned be restored,

as the case requires.

32. Change of particulars for registration.

(1) Where a person who is registered under this Division—

- (a) changes his name, his address or his designation; or
- (b) ceases to exercise, or ceases to be entitled to exercise, the functions of a minister of religion of the denomination by which he was nominated for registration or in respect of which he is registered,

he shall, within one month, notify the Registrar-General as prescribed.

(2) On receiving notification of a change of name, address or designation under Subsection (1), or if the Registrar-General is otherwise satisfied that the particulars shown in the registration of a person under this Division are not correct, he may amend the registration.

33. Returns by recognized denominations.

The regulations may make provision for and in relation to the furnishing to the Registrar-General, by a recognized denomination, of—

- (a) information as to matters affecting the right to registration under this Division of persons who are registered as ministers of religion of the denomination; and
- (b) an annual list of persons registered under this Division as ministers of religion of the denomination who are exercising the functions of ministers of religion of the denomination.

34. Authorization of other celebrants.

(1) The Registrar-General may solemnize marriages in any part of the country.

(2) The Minister may, by instrument, authorize suitable persons to solemnize marriages.

(3) An authorization under Subsection (2)—

- (a) may authorize a person to solemnize marriages at any place in the country or in a part of the country specified in the instrument of authorization; and
- (b) is subject to such conditions (if any) as are specified in the instrument of authorization.

Division 2.—Marriages by Authorized Celebrants.

35. Application of Division 2.

This Division applies to and in relation to all marriages solemnized, or intended to be solemnized, in the country, other than marriages to which Division 3 applies.

36. Solemnization of marriages.

A marriage shall be solemnized by or in the presence of an authorized celebrant who is authorized to solemnize marriages at the place where the marriage takes place.

37. Notices, declarations, etc., as to intended marriages.

(1) Subject to this section, a marriage shall not be solemnized unless—

(a) written notice of the intended marriage has been given in accordance with this section and has been received by the authorized celebrant solemnizing the marriage—

(i) not earlier than three months before the date of the marriage and not later than the seventh day before the date of the marriage; or

(ii) where the authorized celebrant certifies in writing that the giving of seven days' notice was not reasonably practicable in the circumstances, not later than the second day before the date of the marriage; and

(b) there has been produced to the authorized celebrant, in respect of each of the parties—

(i) an official certificate or an official extract of an entry in an official register, showing the date and place of his or her birth; or

(ii) a declaration made by him or her, or by one of his or her parents, stating that, for reasons specified in the declaration, it is impracticable to obtain such a certificate or extract and stating, to the best of the declarant's knowledge and belief and as accurately as the declarant has been able to ascertain, where and when the party was born; and

(c) each of the parties has made and subscribed before the authorized celebrant a declaration, in the prescribed form, as to—

(i) his or her conjugal status; and

(ii) his or her belief that there is no legal impediment to the marriage; and

(iii) such other matters as are prescribed.

(2) A notice under Subsection (1)—

(a) shall be in the prescribed form; and

(b) shall contain such particulars in relation to the parties as are specified in that form; and

(c) subject to Subsection (3), shall have been signed by each of the parties in the presence of an authorized celebrant, Commissioner for Declarations or justice.

(3) Where the signature of a party to an intended marriage cannot conveniently be obtained at the time when it is desired to give notice under this section, a notice—

(a) duly signed by the other party and otherwise complying with the provisions of this section; and

(b) signed by the first-mentioned party in the presence of an authorized celebrant before the marriage is solemnized,

shall be deemed to have been a sufficient notice.

(4) Where a party to an intended marriage is unable, after reasonable inquiry, to ascertain all the particulars in relation to him or her required to be contained in a notice under this section, the failure to include in the notice such of those particulars as he or she

is unable to ascertain does not make the notice ineffective for the purposes of this section if, at any time before the marriage is solemnized, he or she furnishes to the authorized celebrant solemnizing the marriage a statutory declaration as to his or her inability to ascertain the particulars not included in the notice, and the reason for that inability.

(5) If a prescribed authority is satisfied that the circumstances of a particular case justify his so doing, he may—

- (a) authorize an authorized celebrant to solemnize a marriage; or
- (b) where he is also an authorized celebrant and there is no other authorized celebrant suitable to the parties conveniently available, solemnize a marriage himself,

notwithstanding the fact that the notice required by Subsection (1) has been received later than the seventh day before the date of the marriage.

(6) Where, by reason of the death, absence or illness of an authorized celebrant to whom a notice of intention to marry has been given, or for any other reason, it is impracticable for him to solemnize the marriage, the marriage may be solemnized by any authorized celebrant who has possession of the notice.

(7) The declarations of the parties required by Subsection (1) shall both be written on the same paper and on the same side of that paper.

(8) An authorized celebrant shall not solemnize a marriage if—

- (a) he has not satisfied himself that the parties are the parties referred to in the notice given under this section in relation to the marriage; or
- (b) he has reason to believe that—
 - (i) a notice given under this section; or
 - (ii) a declaration made and subscribed under this section, or a statutory declaration made for the purposes of this section,

in relation to the marriage, contains a false statement or an error or is defective.

(9) An authorized celebrant may permit an error in a notice under this section to be corrected in his presence by either of the parties at any time before the marriage to which it relates has been solemnized, and may treat the corrected notice as having been originally given in its corrected form.

(10) Where the declaration made under Subsection (1) by a party states that he or she is a divorced person or a widower or widow, an authorized celebrant shall not solemnize the marriage unless there is produced to him evidence of his or her divorce, or of the death of his or her spouse, as the case requires.

38. Time and place of solemnization.

A marriage may be solemnized on any day, at any time and at any place.

39. Witnesses.

A marriage shall not be solemnized unless at least two persons who are, or appear to the person solemnizing the marriage to be, over the age of 16 years are present as witnesses.

40. Form of ceremony.

(1) Where a marriage is solemnized by or in the presence of an authorized celebrant who is a minister of religion, it may be solemnized according to any form and ceremony

recognized as sufficient for the purpose by the religious body or organization of which he is a minister.

(2) Where a marriage is solemnized by or in the presence of an authorized celebrant who is not a minister of religion, it is sufficient if each of the parties says to the other, in the presence of the authorized celebrant and the witnesses, the words—

“I call on the persons present here to witness that I, A.B., take you, C.D., to be my lawful wedded wife (or husband).”,

or words to that effect.

(3) Subject to Subsection (4), where a marriage has been solemnized by or in the presence of an authorized celebrant a certificate of the marriage prepared and signed in accordance with Section 45 is conclusive evidence that the marriage was solemnized in accordance with this section.

(4) Subsection (3) does not make a certificate conclusive—

(a) where the fact that the marriage ceremony took place is in issue—as to that fact; or

(b) where the identity of a party to the marriage is in issue—as to the identity of the party.

41. Explanation of marriage relationship.

(1) Subject to Subsection (2), before a marriage is solemnized by or in the presence of an authorized celebrant who is not a minister of religion of a recognized denomination he shall say to the parties, in the presence of the witnesses, the words—

“I am duly authorized by law to solemnize marriages according to law.

“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn and binding nature of the relationship into which you are now about to enter.

“Marriage, according to law, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”,

or words to that effect.

(2) Where the Minister is satisfied that the form of ceremony to be used by a person authorized under Section 34(2) to solemnize marriages sufficiently states the nature and obligations of marriage, he may, either by the instrument by which that person is so authorized or by a subsequent instrument, exempt him from compliance with Subsection (1).

42. Position of clergy as to solemnization of marriage.

This Part does not—

(a) impose an obligation on an authorized celebrant who is a minister of religion to solemnize a marriage; or

(b) prevent such an authorized celebrant from making it a condition of his solemnizing a marriage that—

(i) longer notice of intention to marry than that required by this Act is given; or

(ii) requirements additional to those prescribed by this Act are observed.

43. Invalidity of certain marriages.

(1) Subject to this Act, a marriage solemnized otherwise than in accordance with the preceding provisions of this Division is not a valid marriage.

(2) A marriage is not invalid by reason of all or any of the following matters :—

- (a) failure to give the notice required by Section 37, or a false statement, defect or error in such a notice; or
- (b) failure of the parties, or either of them, to make or subscribe a declaration as required by Section 37, or a false statement, defect or error in such a declaration; or
- (c) failure to produce to the authorized celebrant a certificate or extract of an entry or a statutory declaration as required by Section 37, or a false statement, defect or error in such a statutory declaration; or
- (d) failure to comply with, or a contravention of, any other requirement of Section 37; or
- (e) failure to comply with the requirements of Section 39 or 41; or
- (f) failure to comply with the requirements of Section 8.

(3) A marriage is not invalid by reason of the fact that the person solemnizing it was not authorized by this Act to do so, if either party to the marriage believed, at the time when the marriage was solemnized, that that person was lawfully authorized to solemnize it.

(4) In a case to which Subsection (3) applies the form and ceremony of the marriage shall be deemed to have been sufficient if they were such as to show an intention on the part of each of the parties to become by the marriage the lawfully wedded spouse of the other.

44. Retention of consents, etc.

An authorized celebrant to whom a consent, dispensation with consent or statutory declaration is produced under this Act shall retain it in his possession until he deals with it in accordance with Section 45.

45. Marriage certificates.

(1) Where an authorized celebrant solemnizes a marriage, he shall—

- (a) prepare a certificate of the marriage, in the prescribed form, for the purpose of issue to the parties to the marriage; and
- (b) prepare two official certificates of the marriage in the prescribed form.

(2) Immediately after the solemnization of the marriage, the authorized celebrant, each of the parties to the marriage and two witnesses of the marriage who are, or appear to the authorized celebrant to be, over the age of 16 years shall sign each of the certificates prepared under Subsection (1).

(3) One of the official certificates shall be on the reverse side of the paper bearing the declarations made by the parties under Section 37.

(4) The authorized celebrant shall—

- (a) hand the certificate referred to in Subsection (1)(a) to one of the parties to the marriage, on behalf of the parties; and
- (b) forward the official certificate referred to in Subsection (3), together with the notice under Section 37 and any statutory declarations, consents and dispensations with consents relating to the marriage that are in his possession, to the Registrar-General; and

(d) retain the other official certificate and deal with it as prescribed.

(5) Where—

(a) the authorized celebrant dies without having prepared and signed the certificates of the marriage; or

(b) by reason of other special circumstances the Minister thinks it necessary to do so,

the Minister may, if he is satisfied that a marriage was duly solemnized, prepare and sign the certificates with such modifications as are appropriate.

(6) A certificate by the Minister under Subsection (5) has the same force and effect as if it had been prepared and signed, in accordance with this section, by the authorized celebrant.

(7) The regulations may make provision for and in relation to the furnishing of a substitute certificate in the event of the loss or destruction of a certificate previously forwarded under this section in respect of a marriage.

Division 3.—Marriages by Foreign Diplomatic or Consular Officers.

46. Interpretation of Division 3.

In this Division, unless the contrary intention appears—

“diplomatic or consular officer” in relation to an overseas country, means a person recognized by Papua New Guinea as a diplomatic or consular representative of that country in Papua New Guinea;

“proclaimed overseas country” means an overseas country in respect of which a notice under Section 48 is in force.

47. Application of Division 3.

This Division applies to marriages, in accordance with the law or custom of a proclaimed overseas country, between parties at least one of whom possesses the nationality of that country.

48. Proclaimed overseas countries.

Where the Minister is satisfied, in relation to an overseas country, that the law or custom of that country authorizes the solemnization by or in the presence of diplomatic officers of that country, or consular officers of that country, or both, of marriages outside that country the Minister may, by notice in the National Gazette, declare that country to be a proclaimed overseas country for the purposes of this Division.

49. Solemnization of marriages by consular officers, etc.

This Act does not prevent the solemnization in Papua New Guinea of a marriage to which this Division applies by or in the presence of a diplomatic or consular officer of a proclaimed overseas country, if—

(a) neither of the parties is a citizen of Papua New Guinea; and

(b) each of the parties is of marriageable age; and

(c) neither of the parties is already married to a person other than the other party to the marriage; and

(d) the parties are not within the prohibited degrees of consanguinity set out in Schedule 2.

50. Recognition of marriages.

A marriage solemnized in Papua New Guinea by or in the presence of a diplomatic or consular officer of a proclaimed overseas country, being a marriage to which Section 49 was applicable, shall be recognized as valid in Papua New Guinea if—

- (a) the marriage is recognized as a valid marriage by the law or custom of the overseas country; and
- (b) the marriage has been registered in accordance with any law of Papua New Guinea relating to the registration of marriages.

PART VI.—LEGITIMATION.

51. Effect of Part VI.

(1) This Part does not operate in relation to a child so as to affect the validity or effect of an adoption of the child, whether before or after the commencement date.

(2) This Part does not exclude the operation of any law that provides for, or requires, information to be supplied for the purpose of making or altering entries in a register, but a legitimation under this Part is not affected by failure to comply with such a law.

52. Legitimation by marriage of parents.

(1) A child (whenever born) whose parents were not married to each other at the time of his birth but have subsequently married each other is, by virtue of the marriage, for all purposes the legitimate child of his parents as from his birth or as from the commencement date, whichever was the later.

(2) Subsection (1) applies in relation to a child whether or not there was a legal impediment to the marriage of his parents at the time of his birth and whether or not he was living at the time of the marriage.

(3) Subsection (1) does not apply in relation to a child unless—

- (a) at the time of the marriage of his parents his father was domiciled in, or was a bona fide resident of, Papua New Guinea; or
- (b) the marriage of his parents took place—
 - (i) in Papua New Guinea or in Australia; or
 - (ii) outside Papua New Guinea and outside Australia, under the *Marriage (Overseas) Act* 1955 of Australia, as in force from time to time, or under Part V. of the *Marriage Act* 1961 of Australia, as in force from time to time.

(4) This section does not make ineffective a legitimation that took place before the commencement date.

(5) This section does not apply in relation to a child so as to affect any estate, right or interest in any property to which a person has become, or may become, entitled, whether mediately or immediately, and whether in possession or in expectancy, by virtue of a disposition that took effect, or by devolution by law on the death of a person who died, before the marriage of the parents of the child or the commencement date, whichever was the later.

53. Foreign legitimations.

(1) Where—

- (a) the parents of a child born illegitimate (whenever born) have married each other; and
- (b) the marriage took place outside Papua New Guinea and outside Australia; and
- (c) the father of the child was not domiciled in Papua New Guinea or in Australia at the time of the marriage; and
- (d) by the law of the place where the father was then domiciled the child became legitimated by virtue of the marriage,

the child is for all purposes the legitimate child of his parents as from the time of the marriage or as from the commencement date, whichever was the later.

(2) Subsection (1) applies in relation to a child whether or not the law of the place in which the father of the child was domiciled at the time of the birth of the child permitted or recognized legitimation by subsequent marriage, and whether or not the child was living at the time of the marriage.

54. Legitimacy of children of certain void marriages.

(1) Subject to this section, a child of a marriage that is void shall be deemed for all purposes to be the legitimate child of his parents as from his birth or as from the commencement date, whichever was the later, if—

- (a) at the time of the intercourse that resulted in the birth of the child; or
- (b) at the time when the ceremony of marriage took place,

whichever was the later, either party to the marriage believed on reasonable grounds that the marriage was valid.

(2) Subsection (1) does not apply unless one of the parents of the child was domiciled in, or was a bona fide resident of, Papua New Guinea at the time of the birth of the child, or having died before that time was domiciled in, or was a bona fide resident of, Papua New Guinea immediately before his death.

(3) Subsection (1) applies in relation to a child (whenever born), whether the ceremony of marriage took place before or after the commencement date and whether the ceremony of marriage took place within or outside Papua New Guinea.

(4) This section does not apply in relation to a child so as to affect any estate, right or interest in any property to which a person has become, or may become, entitled, whether mediately or immediately, and whether in possession or in expectancy, by virtue of a disposition that took effect, or by devolution by law on the death of a person who died, before the birth of the child or the commencement date, whichever was the later.

55. Declaration of legitimacy, etc.

(1) A person may apply to the National Court for an order declaring that—

- (a) he is the legitimate child of his parents; or
- (b) he or his parents or child, or a remoter ancestor or descendant, is or was a legitimate person,

and the Court may, in its discretion, make the order.

(2) On an application under this section, the National Court may—

- (a) direct that notice of the application be given to such persons (who may include the Minister) as the Court thinks proper; or

- (b) direct that a person be made a party to the application; or
- (c) permit a person having an interest in the matter to intervene in, and become a party to, the proceedings.

(3) Where the National Court makes an order on an application under this section, it may include in the order such particulars in relation to the legitimation of the person to whom it relates as the Court finds to be established.

(4) An order made under this section binds the State whether or not notice was given to the Minister, but does not affect—

- (a) the rights of another person unless that other person was—
 - (i) a party to the proceedings for the order, or a person claiming through such a party; or
 - (ii) a person to whom notice of the application for the order was given, or a person claiming through such a person; or
- (b) any earlier judgement, order or decree of a court of competent jurisdiction.

PART VII.—OFFENCES.

56. Application of Part VII.

This Part applies to and in relation to marriages solemnized, or intended or purporting to be solemnized, in the country and, in relation to such marriages, applies both within the country and elsewhere.

57. Bigamy¹.

(1) Subject to this section, a person who is married and goes through a form or ceremony of marriage with another person is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

(2) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that—

- (a) at the time of the alleged offence, he believed that his spouse was dead; and
- (b) his spouse had been absent from him for such time and in such circumstances as to provide, at the time of the alleged offence, reasonable grounds for presuming that his spouse was dead.

(3) For the purposes of Subsection (2), proof by a defendant that—

- (a) his spouse had been continually absent from him for the period of seven years immediately preceding the date of the alleged offence; and
- (b) at the time of the alleged offence the defendant had no reason to believe that his spouse had been alive at any time within that period,

is sufficient proof of the matters referred to in Subsection (2)(b).

(4) Subject to Subsection (5), a person who goes through a form or ceremony of marriage with a person who is married, knowing, or having reasonable grounds to believe, that the latter person is married, is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

(5) It is not an offence against this section for a person to go through a form or ceremony of marriage with his own spouse.

¹ See, also, Criminal Code, Section 360.

(6) In a prosecution for an offence against this section, the spouse of the accused person is a competent and compellable witness for either the prosecution or the defence.

(7) In a prosecution for an offence against this section, the fact that, at the time of the alleged offence, a person was married shall not be taken to have been proved if the only evidence of the fact is the evidence of the other party to the alleged marriage.

(8) This section does not apply to or in relation to a customary marriage entered into by a person who is a party to a subsisting customary marriage, where the custom applying to each of those marriages recognizes the other marriage as being, or continuing to be, valid.

58. Marrying person not of marriageable age, etc.

(1) Subject to Subsection (3), a person who goes through a form or ceremony of marriage with a person who is not of marriageable age is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years.

(2) Subject to Subsection (4), a person must not go through a form or ceremony of marriage with a person (in this subsection referred to as "the other party to the marriage") who is a minor unless—

- (a) the other party to the marriage has previously been married; or
- (b) the written consent of the person, or of each of the persons, whose consent to the marriage of the other party to the marriage is required by this Act has been given or dispensed with in accordance with this Act.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

(3) It is a defence to a charge of an offence against Subsection (1) if the defendant proves that he believed on reasonable grounds that the person with whom he went through the form or ceremony of marriage was of marriageable age.

(4) It is a defence to a charge of an offence against Subsection (2) if the defendant proves that he believed on reasonable grounds—

- (a) that the person with whom he went through the form or ceremony of marriage had attained the age of 21 years, or had previously been married; or
- (b) that the consent of the person, or of each of the persons, referred to in Subsection (2)(b) had been given or dispensed with in accordance with this Act.

(5) This section does not apply to or in relation to a customary marriage where the custom applying to the marriage recognizes it as being valid.

59. False declarations, etc.

(1) A person who wilfully makes a false statement in a declaration under this Act is guilty of an offence.

(2) A person who, in connexion with a proposed religious ceremony of marriage, makes to another person a written statement as to the matters specified in Section 71(5)(b) that, to the knowledge of the first-mentioned person, is false in a material particular is guilty of an offence.

(3) A person who forges, or forges a signature to, a document for the purpose of inducing another person to solemnize a marriage is guilty of an offence.

Penalty: A fine not exceeding K1 000.00 or imprisonment for a term not exceeding four years.

60. Personation of person whose consent is required.

A person who falsely represents himself to be a person whose consent to the marriage of another person is required by this Act is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

61. Forged consent, etc.

(1) A person who presents, or causes to be presented, to a person authorized to solemnize marriages, a document—

- (a) purporting to be the consent, or a dispensation with the consent, of a person to a marriage; and
- (b) the signature to which—
 - (i) is, to the knowledge of the first-mentioned person, forged; or
 - (ii) was, to the knowledge of that person, obtained by fraud,

is guilty of an offence.

(2) A person who subscribes his name as a witness to the signature of a person to a consent to the marriage of a minor in contravention of Section 8(3) is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

62. Solemnizing marriage in contravention of Section 37 or 39.

(1) An authorized celebrant who solemnizes a marriage under Division V.2 in contravention of Section 37 or 39 is guilty of an offence.

(2) A person who solemnizes a marriage in contravention of Section 8 or 70 is guilty of an offence.

(3) A person who solemnizes a marriage in contravention of Section 30(5) is guilty of an offence.

(4) A person who, in contravention of Section 71(1)(b), purports to solemnize a marriage between persons—

- (a) who inform him that they are already legally married to each other; or
- (b) whom he knows or has reason to believe to be legally married to each other,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

63. Solemnizing marriage where legal impediment.

A person who solemnizes a marriage, or purports to solemnize a marriage, in a case where he has reason to believe that there is a legal impediment to the marriage is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

64. Unauthorized solemnizing of marriage.

Subject to Section 71(7), a person must not solemnize, or purport to solemnize, a marriage at a place in the country unless he is authorized by or under this Act to solemnize marriages at that place.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

65. False statements in applications for registration, etc.

A person who wilfully—

- (a) makes a false statement in an application for registration under Division V.1, or for authority to solemnize marriages under Section 34(2); or
- (b) makes a false statement, whether orally or in writing, in support of such an application,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

66. Going through ceremony of marriage before unauthorized person.

A person who goes through a form or ceremony of marriage with another person—

- (a) knowing that the person solemnizing the marriage is not authorized to solemnize it; and
- (b) having reason to believe that the other party to the marriage believes that the person solemnizing the marriage is so authorized,

is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

67. Giving of defective notices, etc.

A person must not—

- (a) give a notice to an authorized celebrant under Section 37; or
- (b) sign a notice under that section after it has been given,

if, to the knowledge of that person, the notice contains a false statement or an error or is defective.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

68. Failure to forward marriage certificate.

An authorized celebrant who fails to forward to the Registrar-General a certificate of a marriage solemnized by him in accordance with Section 45(4)(b) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

69. Failure by interpreter to furnish certificate, etc.

A person who has acted as interpreter at the solemnization of a marriage who—

- (a) fails to comply with Section 70(3); or

(b) wilfully makes a false statement in a certificate under that subsection, is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months.

PART VIII.—MISCELLANEOUS.

70. Interpreters at marriage ceremonies.

(1) Subject to this section, where the person by whom or in whose presence a marriage is to be solemnized thinks that it is desirable to do so, he may use the services of an interpreter, not being a party to the marriage, in or in connexion with the ceremony.

(2) A person shall not perform a marriage ceremony in or in connexion with which the services of an interpreter are used unless he has received a statutory declaration by the interpreter stating that he understands, and is able to converse in, the languages in respect of which he is to act as interpreter.

(3) A person who has acted as interpreter in or in connexion with a ceremony of marriage shall, immediately after the ceremony has taken place, furnish to the person solemnizing the marriage a certificate signed by him, in the prescribed form, of the faithful performance of his services as interpreter.

(4) This section applies in relation to marriages to which Division V.2 applies.

71. Second marriage ceremonies.

(1) Except in accordance with this section—

(a) persons who are already legally married to each other shall not go through a form or ceremony of marriage with each other; and

(b) a person who is authorized by this Act to solemnize marriages shall not purport to solemnize a marriage between persons—

(i) who inform him that they are already legally married to each other; or

(ii) whom he knows, or has reason to believe, to be already legally married to each other.

(2) Where—

(a) two persons have gone through a form or ceremony of marriage with each other; and

(b) there is a doubt—

(i) whether they are legally married to each other; or

(ii) where the form or ceremony of marriage took place outside the country, whether the marriage would be recognized as valid by a court in the country; or

(iii) whether the marriage could be proved in legal proceedings,

they may, subject to this section, go through a form or ceremony of marriage with each other in accordance with Division V.2 as if they had not previously gone through a form or ceremony of marriage with each other.

(3) Where two persons wish to go through a form or ceremony of marriage with each other under Subsection (2), they shall furnish to the person by whom, or in whose presence, the form or ceremony is to take place or be performed—

(a) a statutory declaration by them—

(i) stating that they have previously gone through a form or ceremony of marriage with each other; and

(ii) specifying the date on which, the place at which and the circumstances in which they went through the form or ceremony; and

(b) a certificate by a lawyer, being a certificate endorsed on the statutory declaration, that, on the facts stated in the declaration, there is, in his opinion, a doubt as to one of the matters specified in Subsection (2)(b).

(4) The person by whom or in whose presence a form or ceremony of marriage takes place or is performed under Subsection (2) shall make an endorsement as prescribed on each certificate issued in respect of it.

(5) This Act does not prevent two persons who are already legally married to each other from going through a religious ceremony of marriage with each other if they have—

(a) produced to the person by whom or in whose presence the ceremony is to be performed a certificate of their existing marriage; and

(b) furnished to him a written statement, signed by them and witnessed by him—

(i) that they have previously gone through a form or ceremony of marriage with each other; and

(ii) that they are the parties mentioned in the certificate of marriage produced with the statement; and

(iii) that—

(A) they have no reason to believe that they are not legally married to each other; or

(B) if their marriage took place outside Papua New Guinea, they have no reason to believe that it would not be recognized as valid in Papua New Guinea.

(6) Sections 37, 39 and 45 do not apply to or in relation to a religious ceremony of marriage in accordance with Subsection (5) and the person by whom, or in whose presence, the ceremony is performed shall not—

(a) prepare or issue in respect of it a certificate of marriage under or referring to this Act; or

(b) issue any other document to the parties in respect of the ceremony unless the parties are described in the document as being already legally married to each other.

(7) A person who is not an authorized celebrant does not commit an offence against Section 64 by reason only of his having performed a religious ceremony of marriage between parties who have complied with the requirements of Subsection (5).

(8) This section does not prevent the parties to a customary marriage from going through a form or ceremony of marriage under Part V, if neither of them is a party to any other subsisting customary marriage.

72. Position of clergy as to re-marriages.

Nothing in this Act or in any other law binds a minister of religion to solemnize the marriage of a person whose former marriage has been dissolved, whether in the country or elsewhere, otherwise than by death.

73. Judicial notice.

(1) All courts, Judges and persons acting judicially shall take judicial notice of—

- (a) the signature of a person who is, or has been, an authorized celebrant appearing on a document under this Act; and
- (b) the fact that, at the time when the document was signed by him, he was an authorized celebrant.

(2) All courts, Judges and persons acting judicially shall take judicial notice of—

- (a) the signature of a person who has, at any time—
 - (i) performed the functions of a Judge or Magistrate under Part III. or IV.; or
 - (ii) performed the functions of a prescribed authority under this Act, appearing on a document under this Act; and
- (b) the fact that, at the time when the document was signed, he was duly authorized to perform those functions.

74. Evidence of registration under Section 28.

(1) A certificate under the hand of the Registrar-General stating that a specified person was, at a date specified in the certificate, registered under Section 28 is evidence that the person specified in the certificate was registered under that section at the date so specified.

(2) A certificate under the hand of the Registrar-General stating that a person specified in the certificate was not, at a date specified in the certificate, registered under Section 28 is evidence that the person specified in the certificate was not registered under that section at the date so specified.

(3) In a prosecution for an offence against this Act, an averment by the prosecutor in the information or complaint that the defendant or any other person specified in the averment is identical with the person specified in a certificate under this section is evidence of that fact.

75. Right of clergy to receive fees.

This Act does not affect the right of a minister of religion who is an authorized celebrant to require or receive a fee for or in respect of the solemnization of a marriage.

76. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) the forms to be used under this Act; and
- (b) the practice and procedure in relation to—
 - (i) inquiries under Part III. by a Judge or a Magistrate; and

- (ii) the hearing of applications under Section 20 or 21, including the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation, the administering of oaths or affirmations and the payment of expenses of witnesses¹; and
- (c) the manner of making application for registration under Section 28; and
- (d) the fees to be charged in respect of the solemnization of marriages by authorized celebrants who are not ministers of religion; and
- (e) penalties of fines not exceeding K200.00 for offences against the regulations.

¹ Section 62 of the *Papua New Guinea Act 1949-1975* of Australia, which was repealed and replaced by the *Papua and New Guinea Act 1966* (No. 84 of 1966), provided in part as follows:—

"(3) Provision may be made by Ordinance with respect to the practice and procedure of and in the Supreme Court¹.

"(4) An Ordinance shall not authorize the making of regulations or any other instrument with respect to the jurisdiction of, or the practice and procedure of or in, the Supreme Court¹.

"(5) In this section, 'practice and procedure' includes any matter with respect to which provision may be made by Rules of Court under the next succeeding section."

In the *Papua New Guinea Act*, "enactment" was defined as follows:—

"'enactment' means—

(a) a law (however described or entitled) made by the House of Assembly and assented to under Section 54² or 56³; or

(b) an Ordinance made under, or continued in force by, the *Papua and New Guinea Act 1949* or that Act as amended."

Section 62A of that Act, originally inserted in the Principal Act by Act No. 84 of 1966, provided for the Judges of the then Supreme Court of the Territory of Papua and New Guinea¹ to make Rules of Court with respect to the practice and procedure of and in the Supreme Court¹, and in particular with respect to various specified matters, some of which are specifically referred to in Section 76(b) of the *Marriage Act*.

The relevant provisions of Sections 62 and 62A of the *Papua New Guinea Act* were inserted by Section 10(1) of Act No. 84 of 1966, which section also contained the following saving and transitional provisions:—

"(2) Notwithstanding the amendment made by the last preceding sub-section but subject to the succeeding provisions of this section, Ordinances, Rules of Court and regulations relating to the jurisdiction, practice or procedure of the Supreme Court of the Territory of Papua and New Guinea¹ that were in force immediately before the commencement of this section continue in force.

"(3) An Ordinance referred to in the last preceding sub-section may be amended or repealed by Ordinance made under the Principal Act as amended by this Act.

"(4) Rules of Court and regulations referred to in Sub-section (2) of this section have effect subject to Ordinances and Rules of Court made under the Principal Act as amended by this Act, and may be repealed, in whole or in part, by any such Ordinance or Rules of Court.

"(5) Sub-section (2) of this Section does not operate to continue in force any provision of an Ordinance authorizing the making of Rules of Court or regulations."

The power to make regulations under Section 76(b) of the *Marriage Act* must therefore be read, as far as the National Court is concerned, subject to any restrictions imposed on the pre-Independence power by Act No. 84 of 1966 of Australia, since under Constitution, Section Sch. 2.6 pre-Independence laws were adopted as in force immediately before the repeal effected by the pre-Independence *Laws Repeal Act 1975*—i.e., for practical purposes, as in force immediately before Independence.

Since Independence, of course, the power to make rules of court "with respect to the practice in and in relation to the Supreme Court or the National Court" has been conferred by Constitution, Section 184.

¹ Since Independence, both the National Court and the Supreme Court.

² Assent by the High Commissioner (previously the Administrator).

³ Assent by the Governor-General of Australia.

SCHEDULES.

SCHEDULE 1.

Sec. 9.

PERSONS WHOSE CONSENT IS REQUIRED TO THE MARRIAGE OF A MINOR.

PART I.

Where the Minor is Legitimate and is not an Adopted Child.

Circumstances in relation to the minor.	Person or persons whose consent is required.
1. Where both parents of the minor are alive—	
(a) in any case other than a case to which Paragraph (b), (c) or (d) is applicable	Both parents.
(b) if the parents are divorced or separated by order of a court or by agreement—	
(i) if the minor lives permanently with one parent	The parent with whom the minor lives.
(ii) if the minor lives with one parent for part of the year and with the other parent for the remainder of the year	Both parents.
(c) if one parent has been deserted by the other parent	The parent who has been deserted.
(d) if both parents have been deprived of the custody of the minor by the order of a court	The person or persons who has or have the custody of the minor under the order of the court.
2. Where only one parent of the minor is alive—	
(a) if there is no other guardian of the minor	The surviving parent.
(b) if there is or are a guardian or guardians of the minor acting jointly with the surviving parent	The surviving parent and the other guardian or guardians.
(c) if there is or are a guardian or guardians of the minor not acting jointly with the surviving parent	The guardian or guardians.
3. Where both parents of the minor are dead—	
(a) if there is or are a guardian or guardians of the minor	The guardian or guardians.
(b) if there is no guardian of the minor	A prescribed authority.

Marriage**PART II.***Where the Minor is Illegitimate and is not an Adopted Child.*

Circumstances in relation to the minor.	Person or persons whose consent is required.
1. Where the mother of the minor is alive—	
(a) if she has not been deprived of the custody of the minor by the order of a court	The mother.
(b) if she has been deprived of the custody of the minor by the order of a court	The person who has the custody of the minor under the order of the court.
2. Where the mother of the minor is dead—	
(a) if there is or are a guardian or guardians of the minor	The guardian or guardians.
(b) if there is no guardian of the minor	A prescribed authority.

PART III.*Where the Minor is an Adopted Child.*

Circumstances in relation to the minor.	Person or persons whose consent is required.
1. Where the minor was adopted by a husband and wife jointly	The person or persons who would be the prescribed person or persons under Part I. if the minor had been born in lawful wedlock to his adoptive parents.
2. Where the minor was adopted by one person only—	
(a) if the adoptive parent is alive and has not been deprived of the custody of the minor by the order of a court	The adoptive parent.
(b) if the adoptive parent is alive but has been deprived of the custody of the minor by the order of a court	The person who has the custody of the minor under the order of the court.
(c) if the adoptive parent is dead—	
(i) if there is or are a guardian or guardians of the minor	The guardian or guardians.
(ii) if there is no guardian of the minor.	A prescribed authority.

SCHEDULE 2.

Sec. 18.

PROHIBITED DEGREES OF CONSANGUINITY AND AFFINITY.

Consanguinity.

Affinity.

Sch. 2.1—MEN.

The marriage of a man is prohibited if the woman is, or has been, his—

- | | |
|--------------------|----------------------------|
| Ancestress | Wife's mother |
| Descendant | Wife's grandmother |
| Sister | Wife's daughter |
| Father's sister | Wife's son's daughter |
| Mother's sister | Wife's daughter's daughter |
| Brother's daughter | Father's wife |
| Sister's daughter | Grandfather's wife |
| | Son's wife |
| | Son's son's wife |
| | Daughter's son's wife. |

Sch. 2.2—WOMEN.

The marriage of a woman is prohibited if the man is, or has been, her—

- | | |
|------------------|--------------------------------|
| Ancestor | Husband's father |
| Descendant | Husband's grandfather |
| Brother | Husband's son |
| Father's brother | Husband's son's son |
| Mother's brother | Husband's daughter's son |
| Brother's son | Mother's husband |
| Sister's son | Grandmother's husband |
| | Daughter's husband |
| | Son's daughter's husband |
| | Daughter's daughter's husband. |

Sch. 2.3—KINDS OF RELATIONSHIPS.

For the purposes of this Schedule, it is immaterial whether the relationship is of the whole blood or half-blood, or whether it is traced through, or to, a person of illegitimate birth.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

Marriage Regulation.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
 - "birth certificate"
 - "filed"
 - "notice of intended marriage"
 - "the official certificate"
 - "the retained official certificate".

PART II.—MARRIAGES OF MINORS.

Division 1.—Consent of Parents, Guardians, etc.

2. Consent of parent, etc., to marriage of minor.
3. Consent of illiterate or blind person.
4. Consent not in English language.

Division 2.—Dispensing with the Consent of Parents, Guardians, etc.

5. Application to dispense with consent.
6. Form of dispensation, etc.

Division 3.—Consent by Judges or Magistrates in Place of Parents, Guardians, etc.

7. Consent by Magistrates to marriage of minor.
8. Re-hearing of application for consent to marriage of minor.
9. Service of notice of request on Magistrate.

Division 4.—Authorization of Marriages of Persons not of Marriageable Age.

10. Applications by persons under marriageable age.
11. Notice of application.
12. Affidavits in support of application.
13. Production of order authorizing marriage.

Division 5.—Practice and Procedure Relating to Inquiries.

14. Interpretation of Division 5—
 - "applicant"
 - "application to which this Division applies"
 - "inquiry"
 - "request".
15. Time and place of hearing.
16. Inquiries.
17. Transfer of proceedings.

Marriage

PART III.—CONSANGUINITY AND AFFINITY.

- 18. Interpretation of Part III.—
 - “applicants”
 - “application to which this Part applies”
 - “order to which this Part applies”.
- 19. Applications.
- 20. Affidavits in support of applications.
- 21. Time and place of hearing.
- 22. Hearing on applications.
- 23. Production of orders granting permission to marry.

PART IV.—PROCEEDINGS UNDER PARTS II. AND III. GENERALLY.

- 24. Interpretation of Part IV.—
 - “application to which this Part applies”.
- 25. Summoning of witnesses.
- 26. Attendance of witnesses.
- 27. Arrest of witness failing to attend.
- 28. Witness's expenses.
- 29. Power to examine on oath.
- 30. Offences by witnesses.
- 31. Contempt, etc.
- 32. Legal representation.
- 33. Protection.

PART V.—SOLEMNIZATION OF MARRIAGES.

Division 1.—Authorization of Ministers of Religion as Celebrants.

- 34. Nomination of minister of religion.
- 35. Application for registration.
- 36. Notice of intention to cancel registration.
- 37. Notice of removal from register.
- 38. Notice of change of address, etc.
- 39. Annual list of ministers of religion.
- 40. Returns by recognized denominations.

Division 2.—Solemnization of Marriages.

- 41. Notice of intended marriage.
- 42. Declaration by party to intended marriage.
- 43. Certificates of marriage.
- 44. Disposal of retained certificates of marriage.
- 45. Lost official certificates of marriage.

PART VI.—MISCELLANEOUS.

- 46. Interpreter's certificate.
- 47. Endorsement for second marriage ceremony.
- 48. Return of official books, etc., to registering authorities.
- 49. Fees.

SCHEDULES.

SCHEDULE 1.

- FORM 1.—Application to Dispense with Consent to Proposed Marriage of a Minor.
- FORM 2.—Dispensation with Consent to Marriage of Minor.
- FORM 3.—Notice of Refusal to Dispense with Consent to Marriage of Minor.
- FORM 4.—Notice of Application to Magistrate for Consent to Marry.
- FORM 5.—Consent of Magistrate on Application under Section 11 of the Marriage Act.
- FORM 6.—Request under Section 12 of the Marriage Act.
- FORM 7.—Notice of Application for Order Authorizing Marriage under Marriageable Age.
- FORM 8.—Notice of Time, Date and Place for the Holding of an Inquiry.
- FORM 9.—Application for Permission to Marry.
- FORM 10.—Summons.
- FORM 11.—Nomination of Minister of Religion for Registration.
- FORM 12.—Application for Registration of Minister of Religion.
- FORM 13.—Notice of Intention to Cancel Registration of Minister of Religion.
- FORM 14.—Notice of Intended Marriage.
- FORM 15.—Declaration by Party to Intended Marriage.
- FORM 16.—Certificate of Marriage.
- FORM 17.—Official Certificate of Marriage.
- FORM 18.—Certificate by Interpreter.
- FORM 19.—Endorsement for Second Marriage Ceremony.

SCHEDULE 2.—Fees.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

*Marriage Regulation.*¹

MADE under the *Marriage Act*.

PART I.—PRELIMINARY.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

"birth certificate", in relation to a person, means an official certificate, or an official extract of an entry in an official register, showing the date and place of his birth;

"filed", in relation to a notice of application made to a Magistrate under Part III. of the Act, or to another document concerning such an application, means delivered to the Clerk of the District Court;

"notice of intended marriage" means a notice required to be given for the purposes of Section 37(1)(a) of the Act;

"the official certificate", in relation to a marriage, means the certificate of the marriage complying with Section 45(3) of the Act;

"the retained official certificate", in relation to a marriage, means the certificate of the marriage that is required, under Section 45(4)(c) of the Act, to be retained by the authorized celebrant who solemnized the marriage.

PART II.—MARRIAGES OF MINORS.

Division 1.—Consent of Parents, Guardians, etc.

2. Consent of parent, etc., to marriage of minor.

(1) Subject to Subsections (3) and (4), a consent of a person whose consent is required by the Act to the marriage of a minor shall—

(a) state the full name and address of the person giving the consent; and

(b) state or otherwise indicate the capacity in which his consent is required; and

(c) state the full name of the minor; and

(d) state the full name and address of the other party to the marriage.

(2) Where a consent does not contain all the particulars required by Subsection (1)(a), (c) and (d) but does identify the person giving it and the parties to the marriage to which it relates, the consent shall be deemed to comply with those paragraphs.

(3) Subject to Subsections (4) and (5), where—

(a) an authorized celebrant solemnizes the marriage of a minor; and

¹ See Footnote 1 to Section 76 of the Act.

- (b) a document was produced to the celebrant as the consent of a person whose consent to the marriage of the minor is required by the Act,

the authorized celebrant must, by writing under his hand on the consent, state the manner in which he satisfied himself that the person who gave the consent is a person whose consent to the marriage of the minor is so required.

Penalty: A fine not exceeding K100.00.

(4) Subsections (1) and (3) do not apply to, or in relation to the consent of a Judge or Magistrate under Part III. of the Act.

(5) Subsection (3) does not apply in a case where the consent of both parents of the minor was produced to the authorized celebrant.

3. Consent of illiterate or blind person.

(1) Where it appears to a person who subscribes his name as a witness to the signature of the party giving a consent to the marriage of a minor that the party giving the consent is illiterate or blind, the witness must not so subscribe his name as a witness unless—

- (a) the consent was read, in the presence of the witness, to the person giving the consent; and
- (b) it appeared to the witness that the person giving the consent understood the matter contained in the consent and the effect of signing the consent; and
- (c) the person giving the consent signed it (whether by making his mark or otherwise) in the presence of the witness.

(2) Where Subsection (1) has been complied with in relation to a consent, the witness to the signature of the party giving the consent must certify accordingly by writing under his hand on the consent.

Penalty: A fine not exceeding K100.00.

4. Consent not in English language.

(1) Where a consent to the marriage of a minor that is produced to the authorized celebrant solemnizing the marriage is written in a language other than the English language, the celebrant shall attach to the consent a translation of the consent into the English language, made by—

- (a) the celebrant, if he is competent to make it; or
- (b) a person whom the celebrant believes to be competent to make it,

and forward the translation with the consent to the appropriate registering authority to whom the consent is required to be forwarded under Section 45(4)(b) of the Act.

(2) A person who makes a translation of a consent for the purposes of this section must certify on the translation that—

- (a) it is a translation of the consent; and
- (b) he is competent to make the translation.

Penalty: A fine not exceeding K100.00.

(3) A person shall not wilfully make a false statement in a certificate given for the purposes of Subsection (2).

(4) Where a translation of a consent is made for the purposes of this section by a person other than the authorized celebrant who solemnizes the marriage to which it relates,

the celebrant must certify, on the translation, as to his belief in the competency of that person to make the translation.

Penalty for an offence against Subsection (4): A fine not exceeding K100.00.

Division 2.—Dispensing with the Consent of Parents, Guardians, etc.

5. Application to dispense with consent.

An application under Section 10 of the Act to dispense with the consent of a person whose consent is required to a proposed marriage of a minor—

- (a) shall be in Form 1; and
- (b) shall be accompanied by a birth certificate in respect of the applicant, unless it is impracticable to obtain such a certificate; and
- (c) if consent to the proposed marriage has been given by or in place of any person whose consent to the proposed marriage of the minor is required by the Act—shall be accompanied by the consent.

6. Form of dispensation, etc.

(1) Where a prescribed authority dispenses with the consent of a person to the proposed marriage of a minor, he shall furnish to the minor a dispensation in Form 2.

(2) Where a prescribed authority refuses to dispense with the consent of a person to the proposed marriage of a minor, he shall give to the minor notice of the refusal in Form 3.

Division 3.—Consent by Judges or Magistrates in Place of Parents, Guardians, etc.

7. Consent by Magistrate to marriage of minor.

(1) A person intending to apply to a Magistrate under Section 11(1) of the Act shall deliver notice of the application to the Clerk of a District Court.

(2) Notice of an application referred to in Subsection (1)—

- (a) shall be in Form 4; and
- (b) shall be accompanied by a birth certificate in respect of the proposed applicant, unless it is impracticable to obtain such a certificate; and
- (c) if consent to the proposed marriage has been given by or in place of any other person whose consent to the proposed marriage of the minor is required by the Act—shall be accompanied by the consent.

(3) Notice of an application under Section 11(1) of the Act by a minor who has previously made an application (not being an application that was withdrawn) under that section in relation to his proposed marriage shall state—

- (a) the name of the Magistrate to whom the previous application was made; and
- (b) the decision of the Magistrate on the previous application; and
- (c) the date of the decision.

(4) Where—

- (a) a minor who intends to make application under Section 11(1) of the Act has made a previous application under that subsection; and

(b) the previous application has been re-heard under Section 12 of the Act, the notice of the application shall state—

- (c) the name of the Judge by whom the inquiry into the previous application was held; and
- (d) the decision of the Judge on the re-hearing; and
- (e) the date of the decision.

(5) Where, after a prescribed authority has refused to dispense with the consent of a person to the proposed marriage of a minor, the minor intends to apply under Section 11(1) of the Act for the consent of a Magistrate to the proposed marriage in place of the consent of that person, the notice of refusal by the prescribed authority shall be attached to the notice of the application.

(6) Notice of an application under Section 11(6) of the Act may be filed at the same time as, and may be joined with, notice of an application under Section 11(1).

(7) The consent of a Magistrate on an application under Section 11 of the Act shall be in Form 5.

8. Re-hearing of application for consent to marriage of minor.

(1) Where—

- (a) an application under Section 11(1) of the Act is granted; or
- (b) an application under Section 11(1) or (6) is refused,

the prescribed time for the purposes of Section 12(1) of the Act is one month from the day on which the application was granted or refused.

(2) A request for the re-hearing by a Judge of an application under Section 11 of the Act shall be made by filing the request in an appropriate office of the National Court.

(3) A request under Section 12 of the Act—

- (a) shall be in Form 6; and
- (b) shall be accompanied by a birth certificate in respect of the minor to whom the request relates, unless it is impracticable to obtain such a certificate; and
- (c) if the request is made by the minor and consent to the proposed marriage has been given by or in place of a person whose consent to the proposed marriage of the minor is required by the Act—shall be accompanied by the consent.

(4) A request under Section 12 of the Act—

- (a) shall have attached to it a copy of the notice of application under Section 11 of the Act to which it relates; or
- (b) shall state the matters required by Section 7, and by Form 4, to be stated in such a notice.

(5) An application under Section 11(6) of the Act in its application, by virtue of Section 12(2) of the Act, to requests under Section 12 of the Act may be made at the same time as, and may be joined with, such a request.

9. Service of notice of request on Magistrate.

(1) A person who requests the re-hearing, under Section 12 of the Act, of an application under Section 11 of the Act shall, on the day on which the request is filed, serve notice of the request on the Magistrate who heard the application.

(2) For the purposes of Subsection (1), notice of a request may be served—

(a) by delivering a copy of the request to the Clerk of the District Court to whom notice of the application was delivered under Section 7(1); or

(b) by telegram, signed by the proper officer of the National Court, to that Clerk.

(3) Where notice of a request for the re-hearing of an application by a Judge is served under Subsection (1) on a Magistrate, the Magistrate shall cause the documents relating to the inquiry to which the request relates, including any transcript of the evidence given at the inquiry and any depositions of the witnesses at the inquiry, to be forwarded to the appropriate office of the National Court.

Division 4.—Authorization of Marriages of Persons not of Marriageable Age.

10. Applications by persons under marriageable age.

(1) A person intending to apply to a Judge under Section 7(2) of the Act shall file notice of the application in the appropriate office of the National Court.

(2) A person intending to apply to a Magistrate under Section 7(2) of the Act shall deliver notice of the application to the Clerk of the District Court.

11. Notice of application.

Notice of an application under Section 7(2) of the Act—

(a) shall be in Form 7; and

(b) shall be accompanied by a birth certificate in respect of the applicant, unless it is impracticable to obtain such a certificate; and

(c) if consent to the proposed marriage has been given by or in place of a person whose consent to the proposed marriage of the minor is required by the Act—shall be accompanied by the consent.

12. Affidavits in support of application.

(1) As far as practicable, the facts on which an applicant intends to rely in support of his application shall be stated in affidavits.

(2) Unless the Judge or Magistrate holding the inquiry otherwise directs, an affidavit to be used at an inquiry concerning an application shall be filed before it is so used.

13. Production of order authorizing marriage.

(1) Where a marriage is solemnized between two persons, one of whom has been authorized to marry the other by an order under Section 7(3) of the Act, the person who has been so authorized shall produce the order to the authorized celebrant who solemnizes the marriage.

(2) An authorized celebrant who solemnizes a marriage in relation to which an order under Section 7(3) of the Act has been produced to him shall forward it to the Registrar-General.

Division 5.—Practice and Procedure Relating to Inquiries.

14. Interpretation of Division 5.

In this Division, unless the contrary intention appears—

“applicant”, in relation to a request, means the person who makes the request;

"application to which this Division applies" means—

- (a) an application to a Judge or a Magistrate under Section 7(2) of the Act;
or
- (b) an application to a Magistrate under Section 11 of the Act; or
- (c) a request;

"inquiry" means an inquiry under this Division into the facts and circumstances of an application to which this Division applies;

"request" means a request under Section 12 of the Act for the re-hearing of an application under Section 11 of the Act.

15. Time and place of hearing.

(1) As soon as practicable after notice of an application to which this Division applies made to a Judge is filed in the office of the National Court, the appropriate officer of the Court shall fix a time, date and place for the holding of an inquiry into the relevant facts and circumstances.

(2) As soon as practicable after notice of an application to which this Division applies made to a Magistrate is delivered to the Clerk of a District Court, the Clerk shall fix a time, date and place for the holding of an inquiry into the relevant facts and circumstances.

(3) An officer or Clerk who fixes the time, date and place for the holding of an inquiry shall give to the applicant notice of the time, date and place fixed.

(4) Subject to Subsection (5), an applicant shall serve personally, on each other person who is required by Section 13(1)(b) of the Act to be given an opportunity of being heard at the inquiry, notice in Form 8 of the time, date and place fixed for the holding of the inquiry, together with a copy of his notice of application.

(5) Where notice of an application to which this Division applies has been filed in an office of the National Court or delivered to the Clerk of a District Court, the appropriate officer of the court may, on the request of the applicant and after consultation with a Judge or a Magistrate, as the case may be—

- (a) dispense with service on a person under Subsection (4); or
- (b) specify the manner (not being personal service) in which service on a person may be effected for the purposes of that subsection.

16. Inquiries.

(1) A Judge or Magistrate may adjourn an inquiry from time to time and from place to place.

(2) A Judge or Magistrate shall conduct an inquiry without regard to legal forms and solemnities.

(3) Where—

- (a) a Judge or Magistrate has heard and dealt with an application under Section 7(2) or 11 of the Act; or
- (b) a Judge has heard and dealt with a request under Section 12 of the Act,

any birth certificate or consent that accompanied the application or request shall, unless the Judge or Magistrate otherwise directs, be returned, on request, to the person who made the application.

17. Transfer of proceedings.

(1) This section applies where a Judge or Magistrate to whom an application is made under Section 7(2) of the Act, or a Magistrate to whom an application is made under Section 11 of the Act, refuses under Section 7(5) or 11(3), as the case may be, of the Act, to proceed with the hearing of the application on the ground that he is satisfied that the matter could more properly be dealt with by a Judge or Magistrate sitting at a particular place that is nearer the place where the applicant ordinarily resides.

(2) If in a case to which this section applies, the applicant requests—

- (a) orally, immediately after the refusal; or
- (b) by writing under his hand at any subsequent time,

that the application be heard by a Judge or Magistrate, as the case may be, sitting at the place referred to in Subsection (1), the notice of the application, and any affidavit filed in relation to the application, shall be forwarded to—

- (c) the appropriate officer of the National Court; or
- (d) the Clerk of the appropriate District Court,

as the case may be.

(3) Where notice of an application and the affidavits in relation to an application have been received by the officer or Clerk to whom they have been forwarded under Subsection (2), they shall be dealt with as if they had been filed in the appropriate office of the National Court or delivered to the Clerk of the District Court, as the case may be, under the Act.

PART III.—CONSANGUINITY AND AFFINITY.

18. Interpretation of Part III.

In this Part, unless the contrary intention appears—

“applicants” means two persons who—

- (a) are within the prohibited degrees of affinity and apply under Section 20 of the Act for permission to marry one another; or
- (b) are within the prohibited degrees of consanguinity by reason only of the operation of Section 19 of the Act and apply under Section 21 of the Act for permission to marry one another;

“application to which this Part applies” means an application for an order to which this Part applies;

“order to which this Part applies” means an order under Section 20 or 21 of the Act.

19. Applications.

An application to which this Part applies—

- (a) shall be in Form 9; and
- (b) shall specify the full name and address of each of the applicants; and
- (c) shall be signed by the lawyer representing the applicants or, if they are not represented by a lawyer, by the applicants; and
- (d) shall be filed in the appropriate office of the National Court.

20. Affidavits in support of applications.

(1) As far as practicable, the facts on which the applicants intend to rely in support of their application shall be stated in affidavits filed in support.

(2) The applicants shall state in an affidavit filed in support of their application—

(a) the circumstances by reason of which they are within the prohibited degrees of consanguinity or affinity, as the case may be; and

(b) particulars of the exceptional circumstances alleged to justify the making of an order; and

(c) their respective ages; and

(d) whether they have previously made, in the country or elsewhere, an application to which this Part applies and, if they have made a previous application, the date on which, and the Judge by whom, the previous application or each previous application was determined.

(3) Where one of the applicants is a minor, he shall, in an affidavit filed in support of the application, state whether or not he has previously been married.

(4) Where a minor states in an affidavit referred to in Subsection (3) that he has previously been married, he shall state in the affidavit—

(a) the name of the person to whom he was married; and

(b) when and where the marriage took place; and

(c) the means by which the marriage was dissolved; and

(d) if the marriage was dissolved by a court, the name of the court.

(5) Where a minor states in an affidavit referred to in Subsection (3) that he has not previously been married, he shall also state in the affidavit whether or not an appropriate person or court, whether in the country or elsewhere, has given, or refused to give, his or its consent to the proposed marriage, and if such a consent has been given, shall also state—

(a) the date on which, and the name and address of the person by whom, the consent was given, and the capacity in which he gave it; or

(b) the date on which, and the name of the court by which, the consent was given,

as the case requires.

(6) An affidavit in support of an application to which this Part applies shall be filed in the office of the National Court in which the application is filed.

(7) An affidavit to be used on the hearing by a Judge of an application to which this Part applies shall, unless the Judge otherwise directs, be filed before it is so used.

21. Time and place of hearing.

As soon as practicable after an application to which this Part applies is filed in the National Court, the appropriate officer of the Court shall—

(a) fix a time and place for hearing the application; and

(b) give to the applicants notice of the time and place fixed.

22. Hearing of applications.

(1) A Judge may—

(a) adjourn from time to time and from place to place the hearing of an application to which this Part applies; or

- (b) direct that an application to which this Part applies be heard by another Judge.
- (2) A Judge may exercise his powers under Subsection (1) at any time and at any stage, and either with or without application by the applicants.
- (3) A Judge—
 - (a) shall hear an application to which this Part applies without regard to legal forms and solemnities; and
 - (b) is not bound by any rules of evidence, but may inform himself on any matter in such manner as he thinks proper.

23. Production of orders granting permission to marry.

When a marriage is solemnized between two persons who have been granted permission to marry by order under Section 20 or 21 of the Act, they shall furnish the order to the person by whom the marriage is solemnized, and he shall forward it to the Registrar-General.

PART IV.—PROCEEDINGS UNDER PARTS II. AND III. GENERALLY.

24. Interpretation of Part IV.

In this Part "application to which this Part applies" means an application to which Division II.5 or Part III. applies as defined in Sections 14 and 18 respectively.

25. Summoning of witnesses.

(1) Where notice of an application to which this Part applies has been filed in the office of the National Court, a Judge may, if he thinks it reasonable and proper, issue a summons in Form 10, requiring a person named in it to appear as a witness on the hearing of the application.

(2) Where notice of an application to which Division II.5 applies has been delivered to the Clerk of a District Court, a Magistrate may, if he thinks it reasonable and proper, issue a summons in Form 10, requiring a person named in it to appear as a witness on the hearing of the application.

(3) Service of a summons under this section shall be effected by delivering personally a copy of the summons to the person to be served, and at the same time showing the summons to him.

26. Attendance of witnesses.

A person who has been summoned to attend before a Judge or Magistrate as a witness in proceedings on an application to which this Part applies shall appear and report himself at the time and place specified in the summons and then from day to day, unless excused by a Judge or Magistrate, as the case may be.

27. Arrest of witness failing to attend.

(1) If a person who has been summoned to attend before a Judge or Magistrate in proceedings on an application to which this Part applies fails to attend as required by Section 26, the Judge or Magistrate, as the case may be, may, on being satisfied that the summons has been duly served and that reasonable expenses have been paid or tendered to the person, issue a warrant for his arrest.

- (2) A warrant issued under Subsection (1) authorizes—
 - (a) the arrest of the person; and
 - (b) his being brought before the Judge or Magistrate, as the case may be; and
 - (c) his detention in custody for that purpose until he is released by order of the Judge or Magistrate, as the case may be.
- (3) A warrant issued under Subsection (1) may be executed by—
 - (a) a member of the Police Force; or
 - (b) the Sheriff or an officer of the Sheriff; or
 - (c) any person to whom it is addressed,

and the person executing it may break and enter any place, building or vessel for the purpose of executing it.

(4) The arrest of a person under this section does not relieve him from any liability incurred by him by reason of his failure to attend before the Judge or Magistrate.

28. Witness's expenses.

(1) A person who attends in obedience to a summons under Section 25 issued by a Judge or a Magistrate is entitled to be paid witness's expenses and travelling allowances as if he were attending as a witness before the National Court, or before a District Court, as the case may be, or in special circumstances such expenses and allowances as the Judge or Magistrate directs (less any amount previously paid to him for his expenses of attendance).

(2) Expenses and allowances under Subsection (1) are payable by the person at whose request the witness was summoned.

29. Power to examine on oath.

A Judge or Magistrate may administer an oath to a person appearing as a witness before him in proceedings on an application to which this Part applies, whether he has been summoned or appears without being summoned, and may examine him on oath.

30. Offences by witnesses.

A person summoned under Section 25 to attend before a Judge or Magistrate who—

- (a) without reasonable excuse, fails to attend after payment or tender of a reasonable sum for his expenses of attendance; or
- (b) refuses to be sworn or to make an affirmation as a witness, or to answer any question when required to do so by the Judge or Magistrate; or
- (c) without reasonable excuse, refuses or fails to produce a book, document or writing that he was required by the summons or, in a case to which Part III. applies, by the Judge to produce,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

31. Contempt, etc.

A person who, when a Judge or Magistrate is conducting an inquiry under Part III. of the Act or is exercising powers and functions under Section 20 or 21 of the Act—

- (a) wilfully insults or disturbs the Judge or Magistrate; or
- (b) interrupts the proceedings before the Judge or Magistrate; or
- (c) uses insulting language to the Judge or Magistrate; or

(d) by writing or speech, uses words calculated—

(i) to influence improperly a Judge or Magistrate, or a witness before a Judge or Magistrate, in relation to any application, or proposed application, to which this Part applies; or

(ii) to bring a Judge or Magistrate into disrepute in connexion with an application, or proposed application, to which this Part applies,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

32. Legal representation.

(1) On the hearing of an application to which this Part applies, the applicants are entitled to be represented by a lawyer.

(2) A lawyer appearing in any proceedings on an application to which this Part applies may examine or cross-examine witnesses and address the Judge or Magistrate.

33. Protection.

(1) In the performance of his duty as a Judge or Magistrate in relation to an application to which this Part applies, a Judge or Magistrate has the same protection and immunity as a Judge has in the performance of his duty as a Judge of the National Court.

(2) A lawyer appearing before a Judge or Magistrate in connexion with an application to which this Part applies has the same protection and immunity as a lawyer has in appearing for a party in proceedings in the National Court.

(3) Where a party who is not represented by a lawyer appears before a Judge or Magistrate in connexion with an application to which this Part applies, he has the same protection and immunity as a party to proceedings in the National Court has in appearing before the Court.

(4) A witness summoned to attend or appearing before a Judge or Magistrate in any proceedings on an application to which this Part applies has the same protection as a witness in proceedings in the National Court.

PART V.—SOLEMNIZATION OF MARRIAGES.

Division 1.—Authorization of Ministers of Religion as Celebrants.

34. Nomination of minister of religion.

A nomination under Section 27(b) of the Act of a minister of religion for registration under Section 28(1) of the Act shall be in Form 11.

35. Application for registration.

An application under Section 28(1) of the Act shall be in Form 12.

36. Notice of intention to cancel registration.

A notice under Section 30(2) of the Act—

(a) shall be in Form 13; and

(b) shall be given to the person to whom it relates—

(i) by delivering it to him personally; or

(ii) by sending it to him by A.R. registered post at his address last known to the Registrar-General.

37. Notice of removal from register.

Where the Registrar-General cancels the registration under Section 30(1) of the Act of a person on a ground specified in Section 30(1)(d) or (e) of the Act, the Registrar-General shall give notice of the cancellation to the recognized denomination of which the person is a minister of religion.

38. Notice of change of address, etc.

A notification under Section 32(1) of the Act—

- (a) shall be in writing under the hand of the person concerned; and
- (b) shall specify his name, address and designation before the change, and his name, address and designation after the change.

39. Annual list of ministers of religion.

(1) On or before 31 January in each year, each recognized denomination shall supply to the Registrar-General a list containing particulars of persons who, on 1 January in that year—

- (a) were ordinarily resident in the country; and
- (b) were registered under Section 28(1) of the Act as ministers of religion for that denomination; and
- (c) were exercising the function of such a minister of religion.

(2) A list supplied under Subsection (1) shall state—

- (a) the full name, designation and place of residence of each of the persons to whom it relates; and
- (b) in respect of each person whose name and other particulars are not included in it but were included in the list supplied in the last year—the reasons why his name and other particulars are not included in it.

40. Returns by recognized denominations.

(1) The Registrar-General may, by written notice to a recognized denomination, require it to supply to him, within 14 days after receipt of the notice or within such further period as he allows, a statement containing such information as is indicated in the notice, being information affecting or likely to affect the right to registration of a person registered as a minister of religion of that denomination under Section 28(1) of the Act.

(2) A statement supplied in accordance with a notice under Subsection (1) shall be—

- (a) in such form as the Registrar-General directs; and
- (b) signed by a member of the denomination on behalf of the denomination.

(3) A person who signs a statement supplied under Subsection (1) shall certify in writing at the foot of the statement as to the correctness of the information contained in it.

(4) A person who wilfully makes a false statement in a certificate for the purpose of Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(5) A recognized denomination shall comply with a notice given to it under this section.

Division 2.—Solemnization of Marriages.

41. Notice of intended marriage.

(1) A notice under Section 37(1)(a) of the Act shall be in Form 14.

(2) An authorized celebrant to whom a notice of intended marriage has been given under Section 37(1)(a) of the Act must endorse on the notice the date on which he received the notice.

(3) An authorized celebrant who solemnizes a marriage must endorse on the notice under Section 37(1)(a) of the Act in respect of the marriage—

- (a) the date on which, and the place at which, the marriage was solemnized; and
- (b) whether a birth certificate or a declaration complying with Section 37(1)(b)(ii) of the Act was produced to him in respect of each party to the marriage; and
- (c) if a party to the marriage was a minor, whether any consent to the marriage of the minor was produced to him; and
- (d) if a party to the marriage had been previously married, whether evidence of the death of the previous spouse of the party, or of the dissolution or annulment of the previous marriage, was produced to him.

Penalty: A fine not exceeding K100.00.

42. Declaration by party to intended marriage.

A declaration under Section 37(1)(c) of the Act—

- (a) shall be in Form 15; and
- (b) shall state whether the party making the declaration has attained the age of 21 years, and if he has not attained that age the date of his birth.

43. Certificates of marriage.

For the purposes of Section 45(1) of the Act—

- (a) a certificate of marriage for the purpose of issue to the parties to a marriage shall be in Form 16; and
- (b) an official certificate of a marriage shall be in Form 17.

44. Disposal of retained certificates of marriage.

(1) An authorized celebrant who is a minister of religion registered under Section 28(1) of the Act on the nomination of or in respect of a recognized denomination shall incorporate the retained official certificate of a marriage solemnized by him—

- (a) if the marriage was solemnized in a church of that denomination that is in a parish or other district in charge of a minister of religion of the denomination—with the records of the parish or district; or
- (b) if the marriage was solemnized in a church of that denomination other than a church referred to in Paragraph (a)—with the records of the church; or
- (c) in any other case—with the records of the denomination according to the rites of which the marriage was solemnized.

(2) An authorized celebrant who is authorized to solemnize marriages by virtue of an authorization under Section 34(2) of the Act may destroy the retained official certificate of a marriage solemnized by him at any time after the expiration of the period of six years after the solemnization of the marriage.

45. Lost official certificates of marriage.

(1) Where the official certificate of a marriage—

(a) is not received by the Registrar-General; or

(b) is lost or destroyed after having been received by the Registrar-General,

the Registrar-General may, by written notice to the celebrant, or to another person whom the Registrar-General believes to have the custody of, or control over, the retained official certificate of the marriage, require him—

(c) to prepare a copy of the retained official certificate of the marriage; and

(d) to certify, by writing under his hand, that the copy is a true copy of the retained official certificate; and

(e) to forward the copy to the Registrar-General.

(2) A person who receives a notice under Subsection (1) in relation to a marriage must—

(a) if he has the custody of, or control over, the retained official certificate of the marriage—comply with the notice; or

(b) in any other case—

(i) notify the Registrar-General that the retained official certificate of the marriage is not in his custody or under his control; and

(ii) if, after making reasonable inquiries, he is able to do so, supply to the Registrar-General the name and address of the person who has the custody of the certificate.

Penalty: A fine not exceeding K200.00.

(3) A copy of the retained official certificate of a marriage prepared and certified in accordance with this section has the same force and effect as if it were—

(a) an official certificate of the marriage prepared and signed in accordance with Section 45 of the Act; and

(b) the official certificate of the marriage referred to in Section 45(3) of the Act.

PART VI.—MISCELLANEOUS.**46. Interpreter's certificate.**

For the purposes of Section 70(3) of the Act, a certificate by an interpreter shall be in Form 18.

47. Endorsement for second marriage ceremony.

An endorsement for the purposes of Section 71(4) of the Act on a certificate issued in respect of a marriage shall be in Form 19 and under the hand of the person by whom or in whose presence the form or ceremony of marriage took place or was performed under Subsection (2) of that section.

48. Return of official books, etc., to registering authorities.

(1) Where the Government has made available to a person who is or has been an authorized celebrant any books, documents, forms or other papers for use in connexion with the solemnization of marriages by him, the Registrar-General may by written notice, require him to return to the Registrar-General, within 14 days after receipt of the notice or

within such further period as he allows; such of those books, documents, forms or other papers as are specified in the notice and are in his possession.

(2) A person who fails to comply with the requirements of a notice given to him under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

49. Fees.

(1) The fees specified in Schedule 2 are the fees prescribed in respect of the matters specified in that Schedule.

(2) In the case of a particular marriage, an authorized celebrant may for special reasons remit either wholly or in part the fee for solemnizing the marriage.

(3) A document shall be taken not to have been duly filed for the purposes of this Regulation unless the fee (if any) specified in Schedule 2 in respect of the filing of the document has been paid.

(4) A notice of an application to a Magistrate under Section 7(2) or 11 of the Act shall be taken not to have been duly delivered to the Clerk of a District Court unless the fee specified in Schedule 2 in respect of that notice of application has been paid to the Clerk.

(5) The fee specified in Schedule 2 for a notice of intended marriage given to an authorized celebrant who is not a minister of religion is payable on the giving of the notice, and the fee so specified for a marriage solemnized by such a person is payable on the solemnization of the marriage.

SCHEDULES.

SCHEDULE 1.

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 10.
Reg., Sec. 5(a).

Form 1.

APPLICATION TO DISPENSE WITH CONSENT TO PROPOSED MARRIAGE OF A MINOR.

To:

1. I, (full name, address and occupation of minor), who was born on 19 , apply to dispense with the consent of (full name and address), who is my (capacity in which the person's consent is required to the proposed marriage), to my proposed marriage with (full name, address and occupation), who was born on 19 .

2. No other person is required to consent to my proposed marriage.

or

2. The consent of (full name and address), who is my (capacity in which the person's consent is required to the proposed marriage), is also required to my proposed marriage.

3. (If consent to the proposed marriage has been given by or in place of another person, state accordingly.)

4. (If the other party to the proposed marriage is also a minor, state accordingly, and also state whether or not consent to the proposed marriage of the other party has been given by or in place of each person whose consent to that marriage is required by the Act.)

Dated 19 .

(Signature of Applicant.)

Ch. No. 280

Marriage

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 10.

Form 2.

Reg. Sec. 6(1).

DISPENSATION WITH CONSENT TO MARRIAGE OF MINOR.

I, _____, a prescribed authority having authority under the *Marriage Act* to dispense with the consents of persons in the case of marriages of minors proposed to be solemnized in Papua New Guinea—

- (a) am satisfied that it is impracticable (or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable) to ascertain the views of _____ with respect to the marriage proposed to be solemnized between _____ (a minor) and _____ at _____; and
- (b) have no reason to believe that _____ would refuse his (or her) consent to the proposed marriage; and
- (c) have no reason to believe that facts may exist by which it could reasonably be thought improper that the consent should be dispensed with,

and, in accordance with Section 10 of that Act, I dispense with the consent of _____ to the proposed marriage.

Dated _____ 19 .

(Signature of Prescribed Authority.)

(Title of Prescribed Authority.)

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 10.

Form 3.

Reg., Sec. 6(2).

NOTICE OF REFUSAL TO DISPENSE WITH CONSENT TO MARRIAGE OF MINOR.

On consideration of the application made under Section 10 of the *Marriage Act* by _____ to dispense with the consent of _____ to the marriage proposed to be solemnized between him (or her) and _____ in Papua New Guinea, I, _____ a prescribed authority having authority under that Act to dispense with the consents of persons to the marriages of minors proposed to be solemnized, give notice that I have refused to dispense with the consent of _____ to the proposed marriage.

Dated _____ 19 .

(Signature of Prescribed Authority.)

(Title of Prescribed Authority.)

Marriage

Ch. No. 280

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 11(1).
Reg. Sec. 7(2)(a).

Form 4.

NOTICE OF APPLICATION TO MAGISTRATE FOR CONSENT TO MARRY.

1. I, (full name, address and occupation), who was born on 19 , give notice that I intend to apply under Section 11 of the *Marriage Act* to a Magistrate for his consent to my proposed marriage with (full name, address and occupation), who was born on 19 , in place of the consent of (full name and address), who is my

2. refused to consent to my marriage.

or

2. An application under Section 10 of that Act to dispense with the consent of was refused by on 19

3. No other person is required to consent to my proposed marriage.

or

3. The consent of (full name and address), who is my (capacity in which the person's consent is required to the proposed marriage), is also required to my proposed marriage.

4. (If consent to the proposed marriage has been given by or in place of another person, state accordingly.)

5. (If the other party to the proposed marriage is also a minor, state accordingly, and also state whether or not consent to the proposed marriage of the other party has been given by or in place of each person whose consent to the marriage is required by the Act.)

6. (In this and subsequent paragraphs, state any other particulars required by Section 7 of the *Marriage Regulation*.)

* I also give notice that application is to be made, contingent on the Magistrate giving his consent to the proposed marriage in place of the consent of , for the consent of the Magistrate to the proposed marriage in place of the consent of (full name).

Dated 19 .

(Signature of Applicant.)

* Strike out if inapplicable.

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 11.
Reg., Sec. 7(7).

Form 5.

CONSENT OF MAGISTRATE ON APPLICATION UNDER SECTION 11 OF THE MARRIAGE ACT.

On holding an inquiry into the relevant facts and circumstances concerning the application made by (full name, address and occupation) for my consent to his/her proposed marriage with in place of the consent of (full name and address) the of , I, a person who holds office as a Magistrate, am satisfied that , who refused to consent to the marriage, refused unreasonably (or that, having proper regard to the welfare of , it would be unreasonable for me to refuse my consent to the marriage), and I therefore give my consent to the proposed marriage in place of the consent of .

Dated 19 .

(Signature.)

(Title.)

Ch. No. 280

Marriage

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 12.

Form 6.

Reg., Sec. 8(3)(a).

REQUEST UNDER SECTION 12 OF THE MARRIAGE ACT.

1. I, (full name, address and occupation) request that the application under Section 11 of the Marriage Act made to (name) a Magistrate for his consent to the marriage of (full name, address, occupation and date of birth) with (full name, address, occupation and date of birth) in place of the consent of (full name) be re-heard, under Section 12 of that Act, by a Judge.

2. On 19 , the Magistrate (set out the decision).

3. A copy of the application is attached.

or

3. (In this and the following paragraphs set out the particulars required by Section 8(4) of the Marriage Regulation.)

* Application is also made, contingent on the Judge giving his consent to the proposed marriage in place of the consent of , for the consent of the Judge to the proposed marriage in place of the consent of (full name).

Dated 19 .

(Signature of the person making the request.)

* Strike out if inapplicable.

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 7(2).

Form 7.

Reg., Sec. 11(a).

NOTICE OF APPLICATION FOR ORDER AUTHORIZING MARRIAGE UNDER MARRIAGEABLE AGE.

1. I, (full name, address and occupation), who was born on 19 , give notice that I intend to make application to a Judge (or to a Magistrate) for an order under Section 7(2) of the Marriage Act authorizing me to marry (full name, address and occupation), who was born on 19 .

2. I have not made a previous application under Section 7(2) of that Act.

or

2. On 19 , an application under Section 7(2) of that Act for an order authorizing me to marry was refused (or granted) by

3. The consent of (full name and address) who is my , and of (full name and address) who is my , are required by that Act to my proposed marriage.

4. (If consent to the proposed marriage has been given by or in place of another person, state accordingly.)

5. (If the other party to the proposed marriage is also a minor, state accordingly, and also state whether or not consent to the proposed marriage of the other party has been given by or in place of each person whose consent to the marriage is required by the Act.)

6. Particulars of the exceptional or unusual circumstances alleged to justify the making of an order under that section are as follows:—

Dated 19 .

(Signature of Applicant.)

Marriage

Ch. No. 280

PAPUA NEW GUINEA.
Marriage Act.

Act, Secs. 7(2), 11, 12.
Reg., Sec. 15(4).

Form 8.

NOTICE OF TIME, DATE AND PLACE FOR THE HOLDING OF AN INQUIRY.

An inquiry will be held at _____ on _____ 19____, at _____ a.m./p.m. at _____, by a Judge (or a Magistrate) into the relevant facts and circumstances concerning an application proposed to be made by _____ (or a request made by _____ for the re-hearing of an application made by _____) for _____

If you fail to attend at that time, date and place, the application (or request) may be heard and determined in your absence.

Dated _____ 19____

(Signature of Officer or Clerk of the Court.)

(Title of the Officer or Clerk.)

PAPUA NEW GUINEA.
Marriage Act.

Act, Secs. 20, 21.
Reg., Sec. 19(a).

Form 9.

APPLICATION FOR PERMISSION TO MARRY.

To a Judge of the National Court.

Application is made to a Judge on behalf of _____, whose address is _____ and whose occupation is _____, and on behalf of _____ whose address is _____ and whose occupation is _____, for permission to marry one another.

Dated _____ 19____

(Signature of Lawyer for the Applicants.)

This application is filed by _____ of _____ on behalf of the applicants.

PAPUA NEW GUINEA.
Marriage Act.

Act, Secs. 7(2), 11; 12, 20, 21.
Reg., Sec. 25(1), (2).

Form 10.

SUMMONS.

To: (full name and address of person.)

You are summoned under Section 25 of the *Marriage Regulation* to attend at _____ on _____ 19____, at _____ a.m./p.m. and each day unless excused by a Judge (or Magistrate), to give evidence in connexion with the application (or request) under Section _____ of the *Marriage Act* by _____ for _____ (and then and there to produce the following books, documents and writings _____).

Dated _____ 19____

(Signature.)

(Description.)

NOTE.—Under the *Marriage Regulation*, a person who, having been served with a summons and paid or tendered reasonable expenses, fails to attend as required by the summons—

(a) is guilty of an offence and liable to a fine not exceeding K200.00; and

(b) is liable without further notice to be arrested and brought before a Judge or Magistrate.

Ch. No. 280

Marriage

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 27(b).

Form 11.

Reg., Sec. 34.

NOMINATION OF MINISTER OF RELIGION FOR REGISTRATION.

The (*name of recognized denomination*), being a recognized denomination for the purposes of the *Marriage Act*, nominates (*full name of minister of religion*), who is a (*designation of the minister of religion*) of that recognized denomination for registration under Section 28(1) of that Act.

Dated 19 .

(*Signature of person or persons authorized by the recognized denomination to nominate ministers of religion for registration.*)

(*Designation of the person or of each person who signs the nomination.*)

PAPUA NEW GUINEA

Marriage Act.

Act, Sec. 28(1).

Form 12.

Reg., Sec. 35.

APPLICATION FOR REGISTRATION OF MINISTER OF RELIGION.

To the Registrar-General.

I, _____, apply for registration under Section 28(1) of the *Marriage Act*, and set out the following particulars in support of my application:—

1. I am a (*designation of the applicant*) of (*name of recognized denomination*).
2. I ordinarily reside at _____
3. I have attained the age of 21 years, having been born on _____ 19 .

Dated 19 .

(*Signature of Applicant.*)

Marriage

Ch. No. 280

PAPUA NEW GUINEA.
Marriage Act.

Act, Sec. 30(2).
Reg., Sec. 36(a).

Form 13.

NOTICE OF INTENTION TO CANCEL REGISTRATION OF MINISTER OF RELIGION.

To:

I give you notice, under Section 30(2) of the *Marriage Act*, that it is my intention to cancel your registration under Section 28(1) of that Act on the ground that _____, unless cause is shown to me why your name should not be removed from the register.

In accordance with Section 30(3) of that Act, I call on you to show cause, within _____ days after service of this notice on you, why your name should not be removed from the register. Any representations made by you to me within that period will be considered by me.

Dated _____ 19 _____

Registrar-General.

NOTE.—Under the *Marriage Act*, a person who solemnizes a marriage after he has been given a notice under Section 30(2) of the *Marriage Act* but before—

- (a) he has been notified by the Registrar-General that the Registrar-General has decided not to cancel his registration; or
- (b) the Minister has, under Section 31 of that Act, directed that his registration be restored, is guilty of an offence and liable to a fine not exceeding K400.00 or to be imprisoned for a term not exceeding six months.

Marriage

Ch. No. 280

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 37(1)(d).

Form 15.

Reg., Sec. 42.

DECLARATION BY PARTY TO INTENDED MARRIAGE.

I, (full name, address and occupation of person making the declaration), solemnly and sincerely declare as follows:—

1. I am a (insert "bachelor", "spinster", "widower", "widow", "divorced person" or other conjugal status).

2. I believe that there is no legal impediment to my marriage with (full name, address and occupation of the other party to the intended marriage) (referred to in this declaration as "the other party") by reason of consanguinity or affinity, a subsisting former marriage or lack of marriageable age of either myself or the other party, or by reason of any other circumstances.

3. I have attained the age of 21 years.

or

3. I have not attained the age of 21 years, the date of my birth being 19 .

And I make this solemn declaration under the *Marriage Act*, conscientiously believing the statements contained in it to be true in every particular, and knowing that that Act provides a penalty for the wilful making of a false statement in a declaration.

(Signature of Declarant.)

Declared 19 .
Before me,

(Signature and description of authorized celebrant before whom declaration made.*)

* Insert "Registered Minister of Religion", or other description of qualification to solemnize marriages.

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 45(1)(a).

Form 16.

Reg., Sec. 43(a).

CERTIFICATE OF MARRIAGE.

I, , having authority under the *Marriage Act* to solemnize marriages, certify that I have this day at duly solemnized marriage in accordance with the provisions of that Act (and according to the rites of)* between and in the presence of the undersigned witnesses.

Dated 19 .

(Signature of Celebrant.)

(Signatures of Parties to the Marriage.)

(Signature of Witnesses.)

*Strike out if inapplicable.

Ch. No. 280

Marriage

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 45(1)(b).

Form 17.

Reg., Sec. 43(b).

OFFICIAL CERTIFICATE OF MARRIAGE.

Marriage was solemnized between the parties particulars of whom are given below on
19 , at , according to

Bridegroom. Bride.

1. Surname:
2. Forenames:
3. Usual occupation:
4. Usual place of residence:
5. Conjugal status:
6. Birthplace:
7. Date of birth:
8. Father's name in full:
9. Mother's maiden name in full:

(Signatures of Parties to the Marriage.)

Witnesses to the marriage:

(full names)

(Signatures of Witnesses.)

I, _____, certify that, on the date and at the place specified above, I duly solemnized marriage in accordance with the *Marriage Act* between the parties specified above.

Dated 19 .

(Signature of Celebrant.)

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 70(3).

Form 18.

Reg., Sec. 46.

CERTIFICATE BY INTERPRETER.

I, *(full name and address of interpreter)*, certify that on 19 , at _____, I faithfully performed the services of interpreter from the _____ language into the _____ language (and from the _____ language into the _____ language) in or in connexion with a ceremony of marriage solemnized between *(full name of bridegroom)* and *(full name of bride)*.

Dated 19 .

(Signature of Interpreter.)

Witness:

Marriage

Ch. No. 280

PAPUA NEW GUINEA.

Marriage Act.

Act, Sec. 71(4).

Form 19.

Reg., Sec. 47.

ENDORSEMENT FOR SECOND MARRIAGE CEREMONY.

The form of ceremony of marriage between the above-mentioned parties took place or was performed under Section 71(2) of the *Marriage Act*, those parties having previously gone through a form or ceremony of marriage with each other on 19 .

Dated 19 .

(Signature of Celebrant.)

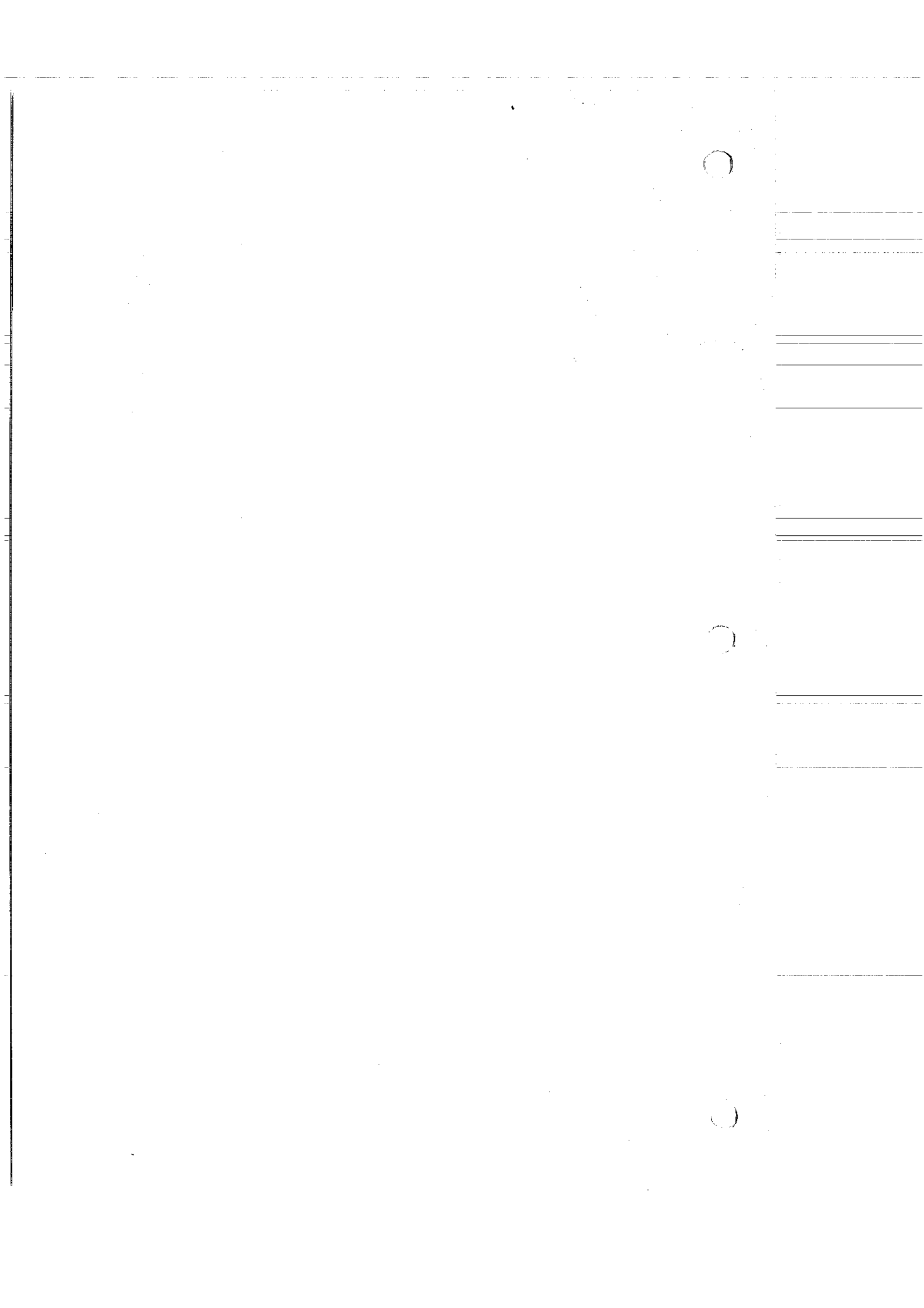
SCHEDULE 2.

(Replaced by No. 25 of 1979.)

Reg., Sec. 49.

FEES.

	K
Filing notice of application to a Judge under Section 7(2) of the Act (including the affidavits in support of the application)	4.00
For notice of application to a Magistrate under Section 7(2) or 11 of the Act (including the affidavits in support of an application under Section 7(2))	2.00
Filing request under Section 12 of the Act	8.00
Filing application under Section 20 or 21 of the Act	8.00
For notice of intended marriage given to an authorized celebrant who is not a minister of religion	5.00
For marriage solemnized by an authorized celebrant who is not a minister of religion	5.00



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

Marriage.

SUBSIDIARY LEGISLATION.

1. Act, Section 26 - Recognized denominations.

Apostolic Church
Assemblies of God
Bamu River Mission
Baptist
Christian Brethren
Churches of Christ
Church of England
Church of the Nazarene
Evangelical Bible Mission
Evangelical Church of Papua
Evangelical Wesleyan Church
Faith Mission
Full Gospel Movement
International Church of the Foursquare Gospel
Jehovah's Witnesses
Liebenzell Mission
Lutheran
Methodist
New Guinea Gospel Mission
New Tribes Mission
Papua Ekalesia
Roman Catholic
Salvation Army
Seventh Day Adventist
South Sea Evangelical Mission
Swiss Evangelical Brotherhood
Unevangelised Fields Mission
The United Church in Papua, New Guinea and the Solomon Islands.
Village Church Mission.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 280.

Marriage.

APPENDIXES.

APPENDIX 1.

SOURCE OF THE MARRIAGE ACT.

Part A.—Previous Legislation.

Marriage Act 1963 (No. 8 of 1964).

Part B.—Cross References.

Section, etc., in Revised Edition	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	5	30	34
2	6	31	35
3	55	32	36
4	56	33	37
5	57	34	38
6	8	35	39
7	9, 10	36	40
8	11	37	41
9	12	38	42
10	13	39	43
11	14	40	44
12	15	41	45
13	16	42	46
14	17	43	47
15	18	44	48
16	19	45	49
17	20	46	50
18	21	47	51
19	22	48	52
20	23	49	53
21	24	50	54
22	25	51	62
23	26	52	58
24	27	53	59
25	28	54	60
26	29	55	61
27	30		
28	31, 32		
29	33		

¹ Unless otherwise indicated, references are to the Act set out in Part A.

MarriagePart B.—Cross References—*continued.*

Section, etc., in Revised Edition.	Previous Reference.	Section, etc., in Revised Edition.	Previous Reference.
56	7	68	74
57	63	69	75
58	64	70	76
59	65	71	77
60	66	72	78
61	67	73	79
62	68	74	80
63	69	75	81
64	70	76	82
65	71	Schedules—	Schedules—
66	72	Schedule 1	Second Schedule
67	73	Schedule 2	Third Schedule

APPENDIX 2.

SOURCE OF THE MARRIAGE REGULATION.

Part A.—Previous Legislation.

Marriage Regulations 1964 (Statutory Instrument No. 36 of 1964)

as amended by—

Statutory Instrument No. 45 of 1965

Marriage (Amendment) Regulation 1979 (Statutory Instrument No. 25 of 1979).

Part B.—Cross References.

Section, etc., in Revised Edition	Previous Reference ¹ .	Section, etc., in Revised Edition.	Previous Reference ¹ .
1	4	37	51
2	7	38	52
3	8	39	53
4	9	40	54
5	10	41	55
6	11	42	56
7	12	43	57
8	13	44	58
9	14	45	59
10	15	46	60
11	16	47	61
12	17	48	63
13	18	49	62
14	19		
15	20	Schedules—	Schedules—
16	21(1), (2), (4)	Schedule 1—	First Schedule—
17	22	Form 1	Form 1
18	32	Form 2	Form 2
19	33	Form 3	Form 3
20	34	Form 4	Form 4
21	35	Form 5	Form 5
22	36, 37	Form 6	Form 6
23	43	Form 7	Form 7
24	—	Form 8	Form 8
25	23, 38	Form 9	Form 10
26	24, 39	Form 10	Forms 9, 11
27	25, 40	Form 11	Form 12
28	26, 41	Form 12	Form 13
29	27, 42	Form 13	Form 14
30,	28, 44	Form 14	Form 15
31	29, 45	Form 15	Form 16
32	21(3), 30, 46	Form 16	Form 17
33	31, 47	Form 17	Form 18
34	48	Form 18	Form 19
35	49	Form 19	Sec. 61
36	50	Schedule 2	Second Schedule.

¹Unless otherwise indicated, references are to the regulations set out in Part A.

