

MARRIAGE ORDINANCE 1935-1936.⁽¹⁾

An Ordinance to regulate the Celebration of Marriage.

BE it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1932*, as follows:—

1. This Ordinance may be cited as the *Marriage Ordinance 1935-1936*.⁽¹⁾ Short title.
Amended by
No. 3 of 1934,
s. 50.
2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾ Commencement.
3. The *Marriage Ordinance 1931* is repealed. Repeal.
4. This Ordinance shall be incorporated and read as one with the *Registration of Births, Deaths, and Marriages Ordinance 1935*.⁽²⁾ Incorporation.
5. In this Ordinance, unless the contrary intention appears— Definitions.
 - “registered clergyman” means any minister of religion registered or deemed to have been registered under the *Registration of Births, Deaths, and Marriages Ordinance 1935*;⁽²⁾
 - “District Registrar” means “District Registrar” as defined by the *Registration of Births, Deaths, and Marriages Ordinance 1935*.⁽²⁾
- 5A. Nothing in this Ordinance shall apply to any marriage both of the parties to which are natives. Non-application
of Ordinance
to natives.
Inserted by
No. 5 of 1936,
s. 3.

(1) The *Marriage Ordinance 1935-1936* comprises the *Marriage Ordinance 1935*, as amended by the other Ordinance referred to in the following Table:—

ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Marriage Ordinance 1935</i> (No. 23 of 1935)	31.7.1935	15.2.1936	2.3.1936 (<i>N.G. Gaz.</i> of 15.1.1936)
<i>Marriage Ordinance 1936</i> (No. 5 of 1936)	25.2.1936	31.7.1936	2.3.1936 (Sec. 2, <i>Marriage Ordinance 1936</i>)

(2) Now the *Registration of Births, Deaths, and Marriages Ordinance 1935-1941*.

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Persons authorized to celebrate marriages.

6.—(1.) A registered clergyman or a District Registrar may celebrate marriages.

(2.) Where parties desirous of being married sign before a District Registrar a declaration in accordance with the form in the First Schedule to this Ordinance, the marriage may, subject to this Ordinance, be celebrated between the parties by the District Registrar in the form of the words contained in the Second Schedule to this Ordinance to be repeated and signed by the parties to the marriage respectively.

Marriage to be celebrated only after notice.

7. Except where it appears to him that one of the parties is dangerously ill, a registered clergyman or a District Registrar shall not celebrate any marriage unless the parties about to be married or one of them has given him written notice of their intended marriage at least two clear days before the celebration of the marriage.

Witnesses.

8. Every marriage shall be celebrated in the presence of at least two witnesses of full age.

Declaration before marriage.

9. A marriage shall not be celebrated unless and until each of the parties, not being a native, desirous of being married has made, on oath or affirmation before the registered clergyman or the District Registrar celebrating the marriage, a declaration in accordance with the form in the Third Schedule to this Ordinance indorsed upon the prescribed certificate of marriage; and the declaration shall be signed by each of the parties before being married, and by the registered clergyman or the District Registrar celebrating the marriage.

Certificate of marriage.

10.—(1.) Where a registered clergyman celebrates a marriage, he shall prepare in triplicate a certificate of marriage in accordance with the form in the Fourth Schedule to this Ordinance, each part bearing his original signature and the original signatures of the parties and witnesses, and shall deliver one part to one of the parties to the marriage, forward one part to the District Registrar, and retain the other part.

(2.) If the District Registrar does not receive the part of the certificate of marriage required to be forwarded to him under the last preceding sub-section, he may, if he is satisfied, upon the production to him of one part of the certificate of marriage, that it is genuine, make an office copy of that part, and shall keep in his custody that office copy, which shall be a record of the marriage to which it refers.

(3.) Where a District Registrar celebrates a marriage, he shall prepare in duplicate a certificate of marriage in accordance with the form in the Fourth Schedule to this Ordinance, each part

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bearing his original signature and the original signatures of the parties and witnesses, and shall deliver one part to one of the parties to the marriage and retain the other part.

11.—(1.) Any person authorized to celebrate marriages by whom or in whose presence a marriage is celebrated or about to be celebrated, shall ask of either of the parties to the marriage or proposed marriage the several particulars specified in the form in the Fourth Schedule to this Ordinance.

Parties to furnish particulars for registering marriage.

(2.) Any person who, when questioned under the last preceding sub-section, fails to answer truthfully any of the questions, shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for six months.

12. Any marriage celebrated by a registered clergyman or a District Registrar in accordance with this Ordinance shall be a legal and valid marriage.

Legal and valid marriage.

13.—(1.) If either party to an intended marriage, not being a widower, a widow, or a native, is under the age of twenty-one years, the marriage shall not be celebrated by a registered clergyman or a District Registrar without the production to him—

Consent in the case of minor.

- (a) of the written consent of the father of the party, if the father is within the Territory; or
- (b) if the father is not within the Territory or is dead, then of the written consent of a guardian duly appointed by the father; or
- (c) if the father is not within the Territory or is dead and has not appointed a guardian, then of the written consent of the mother of the party, if the mother is within the Territory; or
- (d) if the written consent referred to in the last three preceding paragraphs cannot be given by the father, the guardian, or the mother (as the case may be) by reason of his or her death or absence from, or remoteness in, the Territory, or of his or her mental incapacity, whether arising from habitual intoxication or otherwise, then of the written consent of a District Officer administering a District, who shall make inquiry as to the facts and circumstances of the case before giving his consent; or
- (e) of the written consent of a Judge given under the next succeeding sub-section.

(2.) In any case, a Judge, on application to him in Chambers by or on behalf of the party for the marriage of whom the consent is required and after such notices as the Judge directs, may give

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his consent to the marriage if he considers that, in all the circumstances, the marriage is for the benefit of the party.

(3.) Where a marriage is celebrated upon the production of any consent permitted or required by this section, a statement of the particulars of the consent shall be indorsed upon the prescribed certificate of marriage.

(4.) A consent given under this section shall not be deemed to authorize the celebration of a marriage between parties either of whom is at the time of the celebration under the age of sixteen years.

Marriage of
native with
non-native.

14. The marriage of a native with any person other than a native shall not be celebrated by a registered clergyman or a District Registrar without the production to him of the written consent of a District Officer.

Penalty: One hundred pounds or imprisonment for six months.

Marriage of
person under
sixteen years
void.

Amended by
No. 5 of 1936,
s. 4.

15. Notwithstanding any other provision of this Ordinance, any marriage which has been celebrated between parties either of whom was at the time of the celebration under the age of sixteen years, shall be null and void:

Provided that where a native is a party to a marriage under this Ordinance the celebration of the marriage shall, for the purposes of this section, be deemed conclusive evidence that the native had attained the age of sixteen years.

Certain
relationships
between persons
avoid marriage.

16.—(1.) All marriages celebrated between persons who stand to one another in any of the following relationships shall be null and void:—

(a) In relation to a man:—

- Any ancestor or descendant of his.
- His father's wife.
- His grandfather's wife.
- His wife's grandmother.
- His father's sister.
- His mother's sister.
- His father's brother's wife.
- His mother's brother's wife.
- His wife's father's sister.
- His wife's mother's sister.
- His wife's mother.
- His wife's daughter.
- His son's wife.
- His sister.
- His brother's wife.
- His son's son's wife.
- His daughter's son's wife.

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His wife's son's daughter.
His wife's daughter's daughter.
His brother's daughter.
His sister's daughter.
His brother's son's wife.
His sister's son's wife.

(b) In relation to a woman:—

Any ancestor or descendant of hers.
Her mother's husband.
Her grandmother's husband.
Her husband's grandfather.
Her father's brother.
Her mother's brother.
Her father's sister's husband.
Her mother's sister's husband.
Her husband's father's brother.
Her husband's mother's brother.
Her husband's father.
Her husband's son.
Her daughter's husband.
Her brother.
Her husband's brother.
Her son's daughter's husband.
Her daughter's daughter's husband.
Her husband's son's son.
Her husband's daughter's son.
Her brother's son.
Her sister's son.
Her brother's daughter's husband.
Her sister's daughter's husband.

(2.) For the purpose and in the construction of this section, "wife" or "husband" means a person who has been wife or husband (as the case may be) and there shall be no difference between relationship of the whole blood and of the half blood or between children born in lawful wedlock and children not born in lawful wedlock.

17. A marriage shall not be invalidated by reason only of the fact of its having been celebrated by a person not being a registered clergyman or a District Registrar, if the person purported to be either a registered clergyman or a District Registrar, and if either of the parties to the marriage at the time of its celebration *bona fide* believed that the person was what he purported to be.

Celebration by a person not a registered clergyman or District Registrar.

18. A marriage shall not be invalidated by reason only of a mere defect or error in the declaration referred to in section nine

Defect or error in declaration.

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of this Ordinance, where the identity of the parties to the marriage is not in question.

Omission to
make declaration.

19. A marriage shall not be invalidated by reason only of the fact that either or both of the parties to the marriage have not made the declaration referred to in section nine of this Ordinance.

Omission to
obtain consent.

20. A marriage shall not be invalidated by reason only of the failure to obtain a prescribed consent.

Omission of
minister to
register.

21. A marriage shall not be invalidated by reason only of the failure of the minister of religion celebrating the marriage to become a registered clergyman.

Person
celebrating
marriage when
unauthorized.

22. Any person who celebrates any marriage knowing that he is not a registered clergyman or a District Registrar shall be guilty of an offence.

Penalty: Imprisonment for two years.

Celebrating
marriage in
contravention
of Ordinance.

23. Any registered clergyman or any District Registrar who knowingly celebrates, or purports or attempts to celebrate, any marriage, in contravention of any provision of this Ordinance, shall be guilty of an indictable offence.

Penalty: Imprisonment for one year.

Persons marrying
without making
declaration.

24. Any person, not being a native, who goes through the ceremony of marriage without having first made and signed the declaration referred to in section nine of this Ordinance shall be guilty of an offence.

Penalty: One hundred pounds.

Making false
declaration.

25. Any person who knowingly makes a false declaration before a registered clergyman or a District Registrar celebrating his marriage shall be guilty of an offence.

Penalty: Imprisonment for two years.

Celebrating
marriage of
minor without
consent.

26. Any registered clergyman or any District Registrar who celebrates, or purports or attempts to celebrate, a marriage of any person under the age of twenty-one years, not being a widower, a widow, or a native, without the production to him of the prescribed consent, knowing him or her to be under that age or knowing that the consent produced is not that of the proper person, shall be guilty of an offence.

Penalty: Imprisonment for two years.

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27. Any person who marries a person under the age of twenty-one years, not being a widower, a widow, or a native, who has not previously obtained the prescribed consent, knowing him or her to be under that age, shall be guilty of an indictable offence.

Marrying
minor without
consent.
Amended by
No. 5 of 1936,
s. 5.

Penalty: Imprisonment for one year.

28. Any registered clergyman or any District Registrar who celebrates or purports or attempts to celebrate, a marriage of a person under the age of sixteen years, knowing or having reason to believe him to be under that age, shall be guilty of an offence.

Celebrating
marriage of
person under
sixteen years.

Penalty: Imprisonment for two years.

29. The Administrator in Council may make regulations,⁽³⁾ not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

Power to make
regulations.

- (a) the forms to be used in connection with this Ordinance and the modification or variation of the forms in the Schedules to this Ordinance or the substitution of other forms for those forms; and
- (b) the fees to be charged for the performance of the several acts, matters, and things provided for in this Ordinance.

Sec. 6.

THE FIRST SCHEDULE.

TERRITORY OF NEW GUINEA.

Marriage Ordinance 1935.

FORM OF DECLARATION TO AUTHORIZE MARRIAGE
BEFORE DISTRICT REGISTRAR.

We _____ of [usual place of residence and designation
or occupation] and
of [usual place of residence and designation or occupation] do hereby declare
that we are desirous of being married and that the place where [name of
intended wife] usually resides is at [usual place of her residence].

[Signatures]

Signed at _____ by the parties this _____ day
of _____, 19 _____, before me,

District Registrar.

(3) See the *Marriage Regulations*, printed on p. 3152.

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Sec. 6.

THE SECOND SCHEDULE.

TERRITORY OF NEW GUINEA.

Marriage Ordinance 1935.

FORM OF MARRIAGE BEFORE DISTRICT REGISTRAR.

I of [usual place of residence and designation or occupation] do hereby declare in the presence of District Registrar, that I take of [usual place of residence and designation or occupation] to be my lawful wife.

AND I the said do hereby declare that I take the said to be my lawful husband.

[Signatures]

Signed at of by the parties this day
of , 19 , before me,

District Registrar.

Sec. 9.

THE THIRD SCHEDULE.

TERRITORY OF NEW GUINEA.

Marriage Ordinance 1935.

DECLARATION BEFORE REGISTERED CLERGYMAN OR DISTRICT REGISTRAR TO BE INDORSED UPON CERTIFICATE OF MARRIAGE.

I of [usual place of residence, condition, and designation or occupation] being duly sworn do on my oath declare [or if objecting to take an oath do solemnly and sincerely declare and affirm] that I have attained the age of twenty-one years [or if not of the age of twenty-one years and not a widower that I have attained the age of sixteen years and have duly obtained the written consent required by the Marriage Ordinance 1935] and believe there is no impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or any other lawful cause to my being married to of [usual place of residence, condition, and designation or occupation] daughter of of [usual place of residence and designation or occupation]:

AND I do hereby further declare that I have full knowledge that if I swear or affirm falsely I shall be guilty of an offence and be liable to punishment accordingly.

[Signature]

AND I the said [condition] being duly sworn do on my oath declare [or if objecting to take an oath do solemnly and sincerely declare and affirm] that I have attained the age of twenty-one years [or if not of the age of twenty-one years and not a widow that I have attained the age of sixteen years and have duly obtained the written consent required by the Marriage Ordinance 1935] and believe there is no impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or any other lawful cause to my being married to the said

AND I do hereby further declare that I have full knowledge that if I swear or affirm falsely I shall be guilty of an offence and be liable to be punished accordingly.

[Signature]

Declared and sworn [or affirmed] at by both of the parties named this day of
19 , before me,

[Signature and designation of registered clergyman or District Registrar]

THE FOURTH SCHEDULE.

TERRITORY OF NEW GUINEA.

Marriage Ordinance 1935.

CERTIFICATE OF MARRIAGE.

No. in register.	Date and place of marriage.	Christian names and surname of each party.	Occupation of each party.	Usual place of residence of each party.	Former conjugal condition of each party.	Birthplace of each party.	Age last birthday of each party.	Parents.	
								Father's Christian names and surname; mother's Christian names and maiden surname.	Father's occupation.

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We declare that the above is a true statement of the particulars relating to each of us respectively, and that marriage was solemnized between us on the date and at the place mentioned according to ^(a)

[Signatures of parties]

I ^(b) being ^(c) do hereby certify that I have this day duly celebrated marriage between the above-named parties ^(d) after declaration duly made as by law required and with the written consent of ^(e)

Dated this _____ day of _____, 19 ____
 [Signature of registered clergyman or District Registrar]

[Signatures of witnesses]

(a) Add "the rites of the Church of England," or as the case may be, or, if the marriage is before a District Registrar, "according to the form of marriage prescribed by law."
 (b) Name of celebrant.

(c) Designation and, in case of registered clergyman, denomination.
 (d) Strike out words not applicable.
 (e) Name, and relationship to minor or title.

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