



**Tuvalu**

# **MARRIAGE ACT**

**2008 Revised Edition**

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Tuvalu

## MARRIAGE ACT

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Tuvalu

## MARRIAGE ACT

### AN ACT RELATING TO THE SOLEMNISATION AND REGISTRATION OF MARRIAGES<sup>1</sup>

Commencement [2nd October 1968]

#### PART I - PRELIMINARY

##### 1 Short title

This Act may be cited as the Marriage Act.

##### 2 Interpretation

In this Act, unless the context otherwise requires —

“**certificate for marriage**” means a certificate issued by a registrar under section 9;

“**certificate of marriage**” means a certificate issued by a marriage officer under section 16;

“**licence**” means a licence granted under section 11;

“**marriage officer**” means the Registrar-General, a registrar, a minister of religion registered under section 3(1), and a lay preacher appointed under section 3(2);

“**registrar**” means a registrar of births, deaths and marriages appointed for a district under section 5 of the Births, Deaths and Marriages Registration Act,<sup>2</sup> and also means the Registrar-General whenever also appointed as registrar for a district under section 5 of the said Act;

“**Registrar-General**” means the Registrar-General of births, deaths and marriages appointed under section 3 of the Births, Deaths and Marriages Registration Act;

“**registry**” means the office of the Registrar-General and the office of a registrar.

### **3 Registration of ministers of religion and appointment of lay-preacher**

- (1) Upon an application for registration to solemnise marriages by a minister of religion ordinarily officiating as such or by the head of the religious denomination to whom the minister belongs, the Registrar-General may enter the minister's name in a register kept for that purpose.
- (2) Upon an application by the head of a religious denomination on behalf of a lay preacher, the Registrar-General may appoint the lay preacher to be a marriage officer.
- (3) The Registrar-General may at any time remove a minister's name from the register, and may at any time cancel any appointment made under subsection (2).
- (4) A list of ministers and lay preachers registered and appointed respectively to solemnise marriages under this Act shall be published in the *Gazette* in the month of January of each year and shall be kept posted at each registry.
- (5) Ministers and lay preachers registered and appointed respectively to solemnise marriages under any law in force prior to the coming into operation of this Act shall be deemed to be duly registered or appointed, as the case may be, under this Act.

## **PART II - RESTRICTIONS ON MARRIAGE**

### **4 Marriage within prohibited degrees**

A marriage solemnised between a man and any of the persons mentioned in the first column of Schedule 1, or between a woman and any of the persons mentioned in the second column of the said Schedule, shall be void:

Provided always that this section shall not affect the validity of any marriage lawfully solemnized prior to 13<sup>th</sup> November 1981 the date of commencement of the Marriage (Amendment) Act 1981 or any marriage solemnized outside Tuvalu which would but for the passing of that Act have been valid in Tuvalu.

**5 Marriage of persons under 16**

A marriage solemnised between persons either of whom is under the age of 16 shall be void.

**6 Marriage of persons already married**

A marriage solemnised between persons in relation to either of whom there subsists a valid marriage shall be void.

**7 Marriage of persons under 21**

(1) When either party to an intended marriage, not being a widower or a widow, is under 21 years of age, the written consent of the father, or if he be dead or of unsound mind or absent from the district, of the mother, or if both be dead or of unsound mind or absent from the district, of the guardian of such party, shall be required:

Provided, however, that —

- (a) when such party has no father, mother or guardian, the Registrar-General may, if satisfied after due inquiry that the intended marriage is a proper one, dispense with such consent;
  - (b) when the person whose consent is required refuses his consent, the Registrar-General may, if satisfied after due inquiry that the refusal is perverse and that it is in the best interests of the party requiring the consent that the intended marriage should take place, dispense with such consent.
- (2) If the person required to signify his consent is illiterate, he shall sign his consent by placing his mark thereto after it has been read over and explained to him by a magistrate or a marriage officer who shall attest the same.

**PART III - PRELIMINARIES TO MARRIAGE****8 Notice of marriage**

- (1) Whenever any persons desire to marry, one of the parties to the intended marriage shall give to the registrar of the district in which the marriage is intended to take place a notice in the Form A of Schedule 2.
- (2) Upon receipt of such notice the registrar shall cause the particulars thereof to be entered in a book to be called the “Marriage Notice Book”, which may be inspected during working hours without fee, and he shall publish such notice by leaving a copy of it posted on the outer wall of his office until he grants his certificate for marriage or until 3 months shall have elapsed.

## **9 Registrar to issue certificate for marriage**

The registrar, at any time after the expiration of 21 days and before the expiration of 3 months from the date of the notice, upon payment of the prescribed fee, shall thereupon issue his certificate in the Form B of Schedule 2:

Provided always that he shall not issue his certificate until he has been satisfied that —

- (a) one of the parties has been resident within the district in which the marriage is intended to be solemnised at least 28 days preceding the granting of the certificate;
- (b) each of the parties to the intended marriage (not being a widower or widow) is 21 years old, or that if he or she is under age, that the required consent has been given or has been dispensed with;
- (c) there is no impediment of kindred or affinity, or any other lawful hindrance to the marriage.

## **10 Marriage to be solemnised within 3 months of notice**

If the marriage is not solemnised within 3 months of the date of the notice, the notice and all proceedings consequent thereupon shall be void.

## **11 Island Court may grant licence to marry**

- (1) Subject to subsections (2) and (3), the Island Court may dispense with the issue of the certificate for marriage and may grant a licence, which shall be in Form C of Schedule 2, authorizing the solemnisation of a marriage between the parties named in such licence.
- (2) The Island Court shall only grant the licence in accordance with subsection (1) if satisfied by evidence on oath of the following matters –
  - (i) that there is no lawful impediment to a proposed marriage; and
  - (ii) that such consents as may be necessary to the marriage have been obtained; and
  - (iii) that the Secretary to Government has been informed of the application; and
  - (iv) that the granting of the application is reasonable in all the circumstances.

## **12 Objections to marriage**

- (1) At any time after notice of an intended marriage has been given but before the issue of the certificate for marriage, any person, whose consent to the marriage is hereby required or who may know of any just cause why the marriage should not take place, may give notice, either orally or in writing, to

the registrar of the district where notice of marriage has been given, stating the reasons why he objects to the marriage.

- (2) On receipt of such notice, the registrar shall cause the word “forbidden” to be entered opposite to the entry of the notice of marriage in the Marriage Notice Book, and shall make full inquiry as to the genuineness or otherwise of the objection to the marriage.
- (3) If the registrar is satisfied that no objection exists he shall cancel the word “forbidden” and make and sign an entry in the Marriage Notice Book to the effect that after investigation the objection was not sustained, and he may then issue his certificate and the marriage may proceed as if no objection had been entered.
- (4) If, on investigation, the objection is found to be valid, an entry to that effect shall be made in the Marriage Notice Book and the certificate for marriage shall not be issued:

Provided that, if either party is dissatisfied with the decision of the registrar he may within 2 months refer the decision to the Registrar-General, or where the Registrar-General is himself the registrar of the district, to the Attorney-General who shall decide upon the validity or otherwise of the objection; and if the Registrar-General or the Attorney-General, as the case may be, decides that the objection is not valid the entry in the Marriage Notice Book shall be cancelled, and the certificate for marriage may then be issued.

- (5) The time which may have elapsed between the entering of an objection and the final decision in respect of it, shall not be computed in the period of 3 months specified in sections 9 and 10.
- (6) Any person who, without sufficient and proper cause, wilfully gives notice of objection to a marriage shall be liable to a fine of \$50, and, in default of payment, to imprisonment for 3 months.

## PART IV - SOLEMNISATION OF MARRIAGES

### 13 Certificate or licence and declaration precedent to marriage

- (1) No marriage other than a marriage *in articulo mortis* shall be solemnised except under the authority of a registrar's certificate for marriage or of a licence granted under section 11.
- (2) No marriage other than a marriage by proxy shall be solemnised until each of the parties to the marriage, and in the case of a marriage by proxy until the resident party to the marriage, shall have made and signed, or affixed a mark to, the declaration in Form D of Schedule 2 before the marriage officer solemnising the marriage and the witnesses to it.

**14 Place, time and form of marriage before registrar**

A marriage before a registrar shall be solemnised in the registry or in a court-house between the hours of 8 o'clock in the forenoon and 4.30 o'clock in the afternoon in the presence of two witnesses, and the registrar shall ascertain from the parties to the intended marriage that they are entering into the contract of marriage freely and voluntarily, and thereupon each party shall say to the other:

“I call upon these persons here present to witness that I, AB, do take thee, CD, to be my lawful wedded wife (or husband)”.

**15 Place, time and form of marriage before ministers of religion and lay preachers**

A marriage before a minister of religion or a lay preacher shall be solemnised between the hours of 6 o'clock in the forenoon and 6 o'clock in the afternoon, in the presence of at least two witnesses in the church or other public place of worship in the district in which notice of marriage was given, and in such form and ceremony as the minister or lay preacher may think fit to adopt:

Provided that at some stage of the ceremony the parties to the marriage shall freely and publicly express their wish of becoming man and wife and each party shall say to the other:

“I, AB, do take thee, CD, to be my wedded wife (or husband).”

**16 Certificate of marriage**

Immediately upon the solemnisation of the marriage, the marriage officer, the parties and the witnesses to the marriage shall sign in duplicate a certificate in the Form E of Schedule 2, and a copy of such certificate shall be handed to one of the parties to the marriage.

**PART V - REGISTRATION OF MARRIAGES****17 Registration of marriages**

Whenever a marriage is solemnised by a registrar, he shall, after entering forthwith the particulars of the certificate of marriage in a register to be kept for that purpose and to be called the “District Marriage Register”, file the duplicate of the certificate of marriage.

**18 Registration of marriages before marriage officer other than registrar**

- (1) Whenever a marriage is solemnised by a marriage officer other than a registrar, such marriage officer shall within 7 days of the solemnisation of the marriage transmit to the registrar the certificate for marriage, the declaration referred to in section 13(2) and the duplicate of the certificate of marriage.
- (2) Upon receipt of the certificate of marriage the registrar shall forthwith enter the particulars thereof in the District Marriage Register, and every entry made under this subsection shall be dated on the day on which it was so entered and shall be signed by the registrar.

**19 Correction of errors in certificates of marriages**

A registrar, when authorised by the Registrar-General, may correct any clerical error in any certificate of marriage filed in his office, upon production to him of the certificate delivered to the parties, and shall authenticate every such correction by his signature and the date of such correction.

**20 Supply of books and forms**

- (1) It shall be the duty of the Registrar-General to supply each registrar with all the books, certificates and other prescribed forms required under this Act.
- (2) It shall be the duty of each registrar to supply the marriage officers in his district with a sufficient number of certificates of marriage and of such other forms as they may require.

**PART VI - MARRIAGE SOLEMNISED OUT OF TUVALU****21 Issue of certificate for marriage in the United Kingdom of British subject resident in Tuvalu**

Where a marriage is intended to be solemnised or contracted in the United Kingdom between a British subject resident there and a British subject resident in Tuvalu, a certificate for marriage may be issued in Tuvalu by a registrar in the like manner as if the marriage was to be solemnised or contracted under circumstances requiring the issue of such certificate, and as if both such British subjects were resident in Tuvalu.

**22 Notice of marriage under Foreign Marriage Act 1892**

Where a marriage is intended to be solemnised in any foreign country under the Foreign Marriage Act 1892, a notice of such marriage shall be given by one of the parties intending such marriage, who has had his or her usual place of abode for a period of not less than 1 week immediately preceding in some place within Tuvalu,

to the Registrar-General; and a notice under this section may be in Form 1 of Schedule 3.

### **23 Filling and posting notice**

- (1) The Registrar-General shall file every such notice and shall enter a copy thereof in a book to be kept for that purpose, and shall publish such notice by forthwith posting up the same in a conspicuous place in his office, and shall keep the same so posted up during 14 consecutive days.
- (2) The said book and the copy so posted up shall be open at all reasonable times without fee to the inspection of any person.

### **24 Certificate of Registrar-General**

The Registrar-General if he is satisfied that the party giving such notice has actually been resident in Tuvalu for not less than 1 week immediately preceding the giving of such notice, and unless he is aware of any impediment or objection which should obstruct the solemnisation of the marriage, shall give a certificate that such notice has been so given and published as aforesaid, which certificate may be in Form 2 of Schedule 3.

## **PART VII - MISCELLANEOUS**

### **25 Marriage by proxy**

- (1) Whenever a person over the age of 21 years is resident out of Tuvalu and desires to enter into a contract of marriage with a person resident in Tuvalu he shall forward to the Registrar-General an application for permission to marry by proxy in Tuvalu.
- (2) The application shall contain the following particulars: name of applicant, his nationality, his date and place of birth, his usual place of residence, the name and address of the proxy; and shall be accompanied by the certificate of birth of the applicant and by his affidavit, sworn before any person authorised under the law of the applicant's country of residence to administer oaths and take affidavits, to the effect that there is no lawful impediment to the marriage whether by reason of kindred or affinity, or by reason of any former marriage or any other lawful cause.
- (3) Having considered the application, the Registrar-General may, in his discretion, authorise the marriage, and such authority shall be evidenced by his endorsement of the certificate for marriage issued by a registrar pursuant to section 9.

- (4) A marriage by proxy shall not be solemnised unless and until the certificate for marriage shall have been endorsed as provided under subsection (3).

## **26 Marriage *in articulo mortis* and conditions precedent**

- (1) A marriage officer may, without any of the formalities required by this Act, solemnise a marriage between two persons one of whom is *in articulo mortis*.
- (2) No such marriage shall be solemnised unless —
- (a) both parties are able to signify their consent thereto by signing or affixing their marks to the certificate of marriage in the presence of two attesting witnesses;
  - (b) written consent to the marriage, where required under section 7(1), has been given or has been dispensed with.

## **27 Unlawfully solemnising marriage ceremony**

Whoever solemnises a marriage without being qualified so to do, or if qualified so to do, does so without the authority of a certificate for marriage or of a licence, where such certificate or licence is required, shall be liable to a fine of \$500 or to imprisonment for 1 year.

## **28 Offences relating to issue of certificates for marriage**

If a registrar knowingly and wilfully —

- (a) issues a certificate for marriage before the expiration of 21 days from the day on which notice of marriage was entered in the marriage notice book;
- (b) issues a certificate for marriage after the expiration of 3 months from the said day;
- (c) issues a certificate for marriage the issue of which has been forbidden under section 12,

he shall be liable to a fine of \$500 or to imprisonment for 1 year.

## **29 Marriages when invalid**

A marriage solemnised after the commencement of this Act shall be null and void if —

- (a) solemnised by a person other than a marriage officer;
- (b) either of the parties to it has married under a false name;
- (c) solemnised without the authority of a certificate for marriage or of a licence where such certificate or licence is required;

- (d) solemnised without the endorsement by the Registrar-General of the certificate for marriage where such endorsement is required.

### **30 Fees**

- (1) The fees specified in Schedule 4 shall be paid to the registrars in respect of the several matters to which they are applicable.
- (2) All fees collected or paid under this Act shall be paid into the Consolidated Fund.

### **31 Forms**

The forms in Schedules 2 and 3, or forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances may require.

### **32 Regulations**

The Minister may make regulations prescribing forms or fees or replacing, revoking, varying or adding to any of the forms or fees prescribed by this Act.

**SCHEDULE 1***(Section 4)***KINDRED AND AFFINITY - PROHIBITED DEGREES OF RELATIONSHIP**

Mother	Father
Daughter	Son
Father's mother	Father's father
Mother's mother	Mother's father
Son's daughter	Son's son
Daughter's daughter	Daughter's son
Sister	Brother
Wife's mother	Husband's father
Wife's daughter	Husband's son
Father's wife	Mother's husband
Son's wife	Daughter's husband
Father's father's wife	Father's mother's husband
Mother's father's wife	Mother's mother's husband
Wife's father's mother	Husband's father's father
Wife's mother's mother	Husband's mother's father
Wife's son's daughter	Husband's son's son
Wife's daughter's daughter	Husband's daughter's son
Son's son's wife	Son's daughter's husband
Daughter's son's wife	Daughter's daughter's husband
Father's sister	Father's brother
Mother's sister	Mother's brother
Brother's daughter	Brother's son
Sister's daughter	Sister's son
Mother's brothers daughter	Mother's brother's son

Mother's sister's daughter	Mother's sister's son
Father's brother's daughter	Father's brother's son
Father's sister's daughter	Father's sister's son
Mother's brother's daughter's daughter	Mother's brother's daughter's son
Mother's brother's son's daughter	Mother's brother's son's son
Mother's sister's daughter's daughter	Mother's sister's daughter's son
Mother's sister's son's daughter	Mother's sister's son's son
Father's sister's daughter's daughter	Father's sister's daughter's son
Father's sister's son's daughter	Father's sister's son's son
Mother's father's brother's daughter	Mother's father's brother's son
Mother's father's sister's daughter	Mother's father's sister's son
Mother's mother's brother's daughter	Mother's mother's brother's son
Mother's mother's sister's daughter	Mother's mother's sister's son
Father's father's sister's daughter	Father's father's sister's son
Father's father's brother's daughter	Father's father's brother's son
Father's mother's brother's daughter	Father's mother's brother's son
Father's mother's sister's daughter	Father's mother's sister's son

**SCHEDULE 2**

*(Section 8 (1))*

**FORM A - NOTICE OF MARRIAGE**

To the Registrar of the District of..... I hereby give you notice that a marriage is intended to be celebrated within 3 months of the date hereof between me, the undersigned, and the other party herein named.

Name	Condition	Occupation Rank or Profession	Age	Dwelling or place of abode	Consent if any and by whom given

Witness my hand this .....day of ....., 20....

**SIGNATURE (OR MARK).....**

**SIGNATURE OF WITNESS TO MARK .....**

**FORM B - CERTIFICATE FOR MARRIAGE**

*(Section 9)*

I hereby certify that notice of intended marriage between .....  
of ..... and .....  
of ..... was given to me at ..... on .... day of .....  
20.., and that a period of 21 days has elapsed with no objection to the said marriage being  
received by me.

Witness my hand this ..... day of ....., 20...

**SIGNATURE**.....

*Registrar.*

**FORM C - LICENCE**

*(Section 11)*

.....ISLAND COURT

Whereas.....and..... desire to intermarry, and whereas the.....Island Court having heard evidence on oath is satisfied that the provisions of section 11 of the Marriage Act have been fulfilled.

Now, therefore, in pursuance of the said Act, the .....Island Court does hereby dispense with the giving of notice and the issue of the certificate prescribed by sections 8 and 9 of the Marriage Act, and does hereby authorise any Marriage Officer, to solemnise a marriage between the said ..... and the said..... within ..... days from the date hereof.

Given under my hand, this ..... day of .....20...

**(SIGNED)**.....

*Island Magistrate.*

**FORM D - DECLARATION**

*(Section 13 (2))*

I, ....., of ....., do solemnly and sincerely declare that I believe there is no impediment or lawful objection by reason of any kindred or affinity, any former marriage, or want of consent of parents or guardians, or any other lawful cause, to my being married to.....

(name of other party)

.....

(Signature (or mark) of party)

Declared by.....

(name of party)

at .....this ..... day of ....., 20..., before me .....  
Marriage Officer in the presence of:

.....) **WITNESSES**

.....

**FORM E - CERTIFICATE OF MARRIAGE***(Section 16)***MARRIAGE ACT**

No. Date	No.	When Married	Names and Surname	Full Age of Minor	Condition	Occupation, Rank or Profession	Residence at the time of marriage	Father's Name and Surname	Occupation, Rank or Profession of Father
Name of Husband									
Name of Wife									
Witnesses									
	Married at						by me	Marriage Officer	
	This marriage was solemnised between us		}		A.B. C.D.	{	in the presence of us	}	E.F G.H. Witnesses
NOTE:- This form is to be printed in duplicate.									

**SCHEDULE 3**

**FORM 1 - NOTICE OF MARRIAGE INTENDED TO BE SOLEMNISED UNDER THE FOREIGN MARRIAGE ACT 1892**

*(Section 22)*

To the Registrar-General of Tuvalu.

I HEREBY give you notice that a marriage is intended to be had within 3 calendar months from the date hereof at .....between me and the other party herein named and described (that is to say)-

Name		Condition	Occupation, Rank or Profession	Age	Dwelling Place
J.B	.....	Bachelor		Of full age	
E.R.	.....	Spinster		Minor	

and that I have had my usual place of abode for a period of not less than 1 week last past at ..... in Tuvalu.

Witness my hand this ..... day of ....., 20...

**(SIGNATURE)**.....

**FORM 2 - CERTIFICATE OF RECEIPT OF NOTICE OF MARRIAGE UNDER  
THE FOREIGN MARRIAGE ACT 1892**

*(Section 24)*

I, ....., do hereby certify that on the.....day of....., 20.., notice was duly entered in my Foreign Marriage Notice Book of the marriage intended to be had at.....between the parties therein named and described, delivered under the hand of.....one of the parties (that is to say)-

Name		Condition	Occupation, Rank or Profession	Age	Dwelling Place
J.B	.....	Bachelor		Of full age	
E.R.	.....	Spinster		Minor	

and that the said.....thereby declared that he/she had had his/her usual place of abode for a period of not less than 1 week preceding the date of such notice at ..... in Tuvalu and that the notice was published upon the ..... day of....., 20.., by posting the same in a conspicuous place in my office and has remained so posted for a period of 14 days and that I am not aware of any impediment or objection which should obstruct the solemnisation of the said marriage.

.....  
*Registrar-General of Births, Deaths and Marriages.*

**SCHEDULE 4**

*(Section 30)*

**FEES<sup>3</sup>**

	\$	c
1. Filing notice of marriage and entering same.....	1	00
2 On issue of certificate for marriage.....	2	00
3 Endorsement of certificate for marriage.....	2	00
4 Certifying any extract.....	1	00
5 Licence.....	40	00

## ENDNOTES

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<sup>1</sup> 1990 Revised Edition, Cap. 29 – Acts 8 of 1967, 2 of 1969, 8 of 1971, 7 of 1981, 8 or 1982, LN 16/1974, LN 21/1979

Amended by LN 10A/1991

<sup>2</sup> Cap. 17.10

<sup>3</sup> Amended by LN 10A/1991