



ASCENSION

REVISED EDITION OF THE LAWS, 2017

FAMILY, EDUCATION AND WELFARE

MARRIAGE (ASCENSION) ORDINANCE, 2016¹

Ordinance A2 of 2016
In force 1 January 2017²
Amended by Ordinance 5 of 2018

Subsidiary legislation:
MARRIAGE (ASCENSION) REGULATIONS, 2016
Legal Notice A3 of 2016

MARRIAGE (ASCENSION) ORDINANCE, 2016

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AN ORDINANCE to make new provision relating to marriage in Ascension; and for connected or incidental purposes.

PART 1 PRELIMINARY

Short title and commencement

1. (1) This Ordinance may be cited as the Marriage (Ascension) Ordinance, 2016 and comes into force on a date the Governor appoints by Order.³

(2) An Order under subsection (1) may contain such transitional or consequential provisions as appear to the Governor to be necessary or convenient.

³ 1 January 2017; see L.N. A6 of 2017

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“civil marriage” means a marriage solemnised by the Registrar;
“marriage” includes a marriage between persons of the same sex;
“Minister”, in relation to any church or registered place of worship, means any minister, clergyman, pastor, priest or other celebrant of a religious or belief body authorised by such religious or belief body to solemnise marriages in a place of worship registered under this Ordinance;
“religious marriage” means a marriage solemnised by a Minister.

PART 2 REGISTRAR’S OFFICE AND APPOINTMENTS

Registrar’s Office

3. There is to be a Registrar’s Office in Georgetown for the registration of marriages occurring within Ascension.

Registrar of marriages

- 4.⁴ The Administrator of Ascension is the Registrar of Marriages for Ascension.

PART 3 SOLEMNISATION OF MARRIAGES

Persons who may solemnise marriages

5. A marriage may be solemnised only by—
 (a) a Minister in a building registered under section 6; or
 (b) the Registrar at—
 (i) the Registrar’s Office;
 (ii) any premises with current approval under section 8; or
 (iii) any suitable public location which the Registrar agrees to be the place of solemnisation upon payment of the prescribed fee by the parties to the intended marriage.

Buildings used for solemnisation of religious marriages

6. (1) Any building used for solemnisation of religious marriages must be registered in accordance with this section.

- (2) The Registrar may register a place of worship as a place for the solemnisation of religious marriages on receipt of an application from—
 (a) any proprietor or trustee of any separate building used as a place of public religious worship, together with a certificate signed by at least 12 householders and countersigned by the proprietor or trustee, that such building has been used by those householders for the last year as their usual place of public religious worship;
 or

⁴ Section 4 substituted by Ord. 5 of 2018

(b) the Archbishop of Cape Town and Metropolitan of the Church of the Province of South Africa (otherwise known as “The Church of England” or “the English Church” or “the Church of the Anglican Communion in these parts”), or any person authorised by him or her for that purpose in regard to any place of worship attached to such Church of the Province of South Africa.

(3) On registering a building under subsection (1), the Registrar must –
 (a) issue a certificate of registration to the applicant; and
 (b) publish notice of such registration in the *Gazette* and on a Government notice board.

(4) The applicant must, at the time of delivery of the certificate under subsection (3), pay to the Registrar the prescribed fee for such registration, certificate and publication.

(5) St Mary’s Church in Georgetown and The Grotto in the US Base are to be considered for all the purposes of this Ordinance as buildings registered for the solemnisation of marriages.

Buildings no longer used for religious worship or substituted buildings

7. (1) If at any time after registration a building for solemnising marriages under section 6, it appears to the Registrar that such building is no longer used for public religious worship of the congregation on whose behalf it was so registered, the Registrar must, subject to subsection (1A), cancel the registration:

(1A) If it is shown to the satisfaction of the Registrar that such congregation instead of the building mentioned in subsection (1) uses some other building for the purpose of public religious worship –

(a) the Registrar may substitute and register such new place of worship, even if worship has not been used for that purpose for one year; and
 (b) such cancellation or substitution must be registered, certified and published in the same manner as referred to in section 6.

(2) The party requiring substitution under subsection (1A) must pay to the Registrar the prescribed fee at the time of the delivery of the certificate.

(3) After cancellation or substitution of a disused building under subsection (1), no marriage may be solemnised in such disused building.

Premises used for solemnisation of civil marriages

8. (1) Subject to section 5(b)(iii), any premises used for solemnisation of civil marriages must be approved in accordance with this section.

(2) The Registrar may, on application by the proprietor, tenant or person legally occupying any premises, approve such premises as a place for the solemnisation of civil marriages.

(3) An applicant must, together with the application under subsection (2), submit the prescribed fee.

(4) The Registrar must—

- (a) publish notice of the application on a Government notice board in a conspicuous place readily accessible to the public, requesting any comments from any person who may be likely to be affected by approval of such premises as a place for solemnisation of marriages;
- (b) serve a copy of the notice on the Police.

(5) Any person who wishes to submit representations in relation to an application as provided for by subsection (4), must submit a written representations to the Registrar within 30 days of the notice being published.

(6) The Registrar may, after taking into consideration any representations or comments under subsection (5), approve the premises as a place for solemnisation of civil marriages (with or without any conditions), if the Registrar is satisfied that any concerns or comments raised have been addressed sufficiently.

(7) Approval of any premises as a place for solemnisation of civil marriages is valid for a period determined by the Registrar.

(8) The Registrar may revoke any such approval—

- (a) if the holder of it has failed to comply with one or more conditions of the approval; or
- (b) if the use or structure of the premises has changed and the premises are no longer suitable for the purpose,

and, on deciding to revoke the approval, the Registrar must deliver a notice in writing to such holder confirming its revocation.

PART 4 PROCEDURES FOR SOLEMNISATION OF MARRIAGES

Notice of intended marriages to be given to the Registrar

9. (1) In every case of religious or civil marriage intended to be solemnised, one of the parties must give notice to the Registrar in the prescribed form.

(2) The Registrar must, upon payment of the prescribed fee—

- (a) file every notice under subsection (1) with the records of the Registrar's Office;
- (b) publish a copy of such notice on a Government notice board in a conspicuous place readily accessible to the public, from the time of the entry of it until the issuing of a certificate under section 10; and
- (c) enter a true copy of such notice, together with the date of entry into a book, to be called the Marriage Notice Book, which must be open at all reasonable times without fee to all persons who wish to inspect it.

Certificate of notice to issue after 21 days

10. (1) Subject to section 11, at any time not more than 3 months, nor less than 21 days, after the entry of the notice under section 9, the Registrar must, on payment of the prescribed fee, issue a certificate in the prescribed form.

(2) The Registrar must not issue a certificate under subsection (1) if—

- (a) any lawful impediment is shown to the satisfaction of the Registrar why such certificate should not be issued; or

- (b) the issue of such certificate is forbidden by any person or persons whose consent is required to the marriage.

Certificate may issue within 21 days under Governor’s licence

11. Subject to section 10(2), the Governor may, if he or she thinks fit, at any time after the entry of a notice under section 9, and upon payment of the prescribed fee, by licence in the prescribed form authorise the Registrar to issue the certificate under section 10 on or after any day named in such licence.

Consent necessary in case of marriage of minor

12. If any party to an intended marriage is under the age of 18 years, the consent of the person with parental responsibility with respect to that party is required for the marriage, unless such party is a widow or widower.

Forbidding issue of certificate

13. (1) A person whose consent is required by law for any marriage may forbid the issue of the certificate under section 10 at any time before such issue, by writing the word “forbidden” opposite the entry of the notice of intended marriage in the Marriage Notice Book, and by adding his or her name and place of residence and his or her relationship to either of the parties in respect of whom such consent is required.

(2) Any certificate granted after action has been taken under subsection (1) is, and all other proceedings on such a certificate are, void, unless the marriage is authorised by the Chief Justice under section 14 or 15.

Court may consent to marriage in certain cases

14. If person whose consent is required by law for any marriage, is absent from Ascension or is otherwise unable or refuses to give consent –

- (a) the persons who wish to contract such marriage may apply by petition to the Chief Justice; and
- (b) if the proposed marriage appears to the Chief Justice upon examination to be proper, the Chief Justice must judicially declare by order in writing that such marriage may be solemnised and such order is for the purposes of this Ordinance deemed equivalent to such consent.

Caveat may be entered

15. (1) Any person may, on payment of the prescribed fee, enter a caveat with the Registrar against the grant of a certificate for the marriage of any person named in such caveat.

(2) If a caveat is entered with the Registrar, which is signed by or on behalf of the person who enters it and stating his or her place of residence and the ground of objection on which such caveat is founded, no certificate may be issued or granted until the Registrar has examined into the matter of the caveat and is satisfied that it ought not to obstruct the grant of the certificate for such marriage, or until the caveat is withdrawn by the party who entered it.

- (3) If a caveat is entered under subsection (2) –

- (a) in the case of doubt, the Registrar may refer the matter ~~of any such caveat~~ to the Chief Justice who must decide upon the matter; or
- (b) if the Registrar refuses the grant of the certificate, the person requiring such certificate may apply by petition to the Chief Justice, who must either confirm the refusal or direct the grant of the certificate.

Ministers may solemnise marriages during certain hours and after declaration

16. (1) On the delivery of a certificate under section 10 to the Minister of, or officiating in, any registered place of worship named in the certificate, the Minister may solemnise a marriage in that building between the parties named in the certificate in accordance with this section.

(2) A marriage under subsection (1) must be solemnised with open doors, between the hours of 8.00 a.m. and 6.00 p.m., and in the presence of 2 or more credible witnesses besides the Minister.

(3) If the form of solemnisation is other than that of the Church of England, each of the parties must in some part of the ceremony and in the presence of such Minister and witnesses make the following declaration:

“I do solemnly declare that I do not know of any lawful impediment why I, A. B., may not be joined in matrimony to C. D. here present,” and each of the parties must say to the other, “I call upon these persons here present to witness that I, A. B., do take you, C. D., to be my lawful wedded wife [or husband]”:

- (4)** There must be no lawful impediment to the marriage of the parties.

Marriages before Registrar

17. (1) The parties named in the certificate issued under section 10 may have the marriage solemnised by the Registrar in the presence of 2 witnesses, at any place referred to in section 5(b) with open doors (where applicable) and being accessible to the public, and between the hours prescribed in section 16(2), making the declaration and using the form of words prescribed in that section.

(2) The parties to the marriage being so contracted in the presence of the Registrar must pay to the Registrar the prescribed fee.

Certificate of notice or licence void after 3 months from notice

18. If a marriage is not solemnised within 3 calendar months after notice of it was entered by the Registrar –

- (a) the notice and any licence or certificate which was granted on the notice and all other proceedings on it are void; and
- (b) no person may proceed to solemnise the marriage, nor may any Registrar register any such marriage, until new notice has been given and entry made and a certificate of it given at the time and in the manner provided in sections 9 and 10.

No evidence of consent necessary after marriage

19. After any marriage has been contracted, it is not necessary in support of the marriage to give any proof of the consent of any person whose consent was required by law.

Clergy not compellable to solemnise marriage

- 20.** No Minister is compellable to solemnise marriage—
- (a) between persons either of whom is not a member of his or her own communion; or
 - (b) otherwise than according to the rules or custom of such communion; or
 - (c) unless he or she is satisfied by the declaration of the parties or otherwise that the proposed marriage is consistent with such rules or custom.

Entry of marriages in places of worship

21. (1) Immediately after the solemnisation of any marriage by the Minister of any registered place of worship, the Minister must enter into a book to be kept for that purpose in such place of worship, a statement of such marriage in the prescribed form and comprising the prescribed particulars.

(2) An entry under subsection (1) must be signed by the Minister and by the parties married, and by 2 credible witnesses of the marriage, and the Minister must submit to the Registrar a duplicate of such statement similarly signed, and all such statements must be filed by the Registrar and duly preserved in his or her office.

Registration of marriages

22. (1) Every Registrar must enter the particulars of every marriage contracted in his or her presence, and (with the word “ copy “ prefixed) all statements of marriages submitted to him or her under section 21 into a Marriage Register Book, which must be made out in the prescribed form.

(2) Every entry of a marriage contracted in the presence of the Registrar must be signed by him or her, and by the parties married, and by 2 credible witnesses.

(3) Every entry made by the Registrar under this section, and any copy of it certified by the Registrar, is evidence of the facts recorded in it, pursuant to this Ordinance, before all courts and in all proceedings before or in which it may be necessary to give evidence of the marriage to which it relates.

Marriages *in articulo mortis*

23. (1) Notwithstanding anything contained in this Ordinance, the Registrar or a Minister may perform the ceremony of marriage at any time and at any place between any persons, without notice given of the intended marriage under section 9 or without a certificate issued by the Registrar under section 10, if—

- (a) both the parties between whom the ceremony of marriage is to be performed are, at the time of the performance of it, of full age and legally competent to contract marriage and able to signify their consent to it;
- (b) one of them, to the best of the knowledge and belief of such Registrar or Minister and of the other persons signing the certificate referred to in subsection (2), is, at the time of the performance of such ceremony, in a dying state; and
- (c) if the ceremony is to be performed by a Minister - the dying person is a member of the religious communion or denomination to which such Minister belongs.

(2) Immediately after the solemnisation of any marriage under subsection (1), the

officiating Registrar or Minister must ensure that a certificate of such marriage in the prescribed form, is signed by the officiating Registrar or Minister and 2 credible witnesses present at the marriage and, if signed by a Minister, is submitted to the Registrar.

(3) The certificate issued under subsection (2) must be filed by the Registrar in a register to be specially kept for the purpose.

(4) Subject to the observance of the foregoing conditions, a marriage solemnised under this section is good and effectual in law.

(5) No marriage solemnised under this section operates as a revocation of any will.

Registers may be searched

24. Any person at all reasonable times and on payment of the prescribed fee may –
- (a) search the entries in the Marriage Register Books, and the files of such statements in the presence of the Registrar; and
 - (b) apply for true copies certified under the hand of the Registrar of any such entries or statements.

PART 5 NON-COMPLIANCE AND OFFENCES

Clandestine marriage void

25. A marriage is null and void if the parties knowingly and wilfully contract the marriage under the provisions of this Ordinance—

- (a) in any place other than the place specified in the notice and certificate under sections 9 and 10; or
- (b) without such due notice given, or without certificate of such notice duly issued; or
- (c) if the parties to such marriage are within the prohibited degrees of consanguinity or affinity.

Under-age marriages

26. A marriage solemnised between persons either of whom is under 16 years of age is void.

Frivolous entry of caveat

27. A person who enters a caveat with the Registrar against the issue of any certificate, on grounds which the Registrar declares in writing to be frivolous, is liable for the costs of the proceedings and for damages, which may be recovered in a civil action by the party against whom the caveat was entered.

Failure to register or render return of marriages

28. A—
- (a) Minister who fails to transmit to the Registrar the statement required by section 21 within one week after solemnisation of the marriage to which such statement relates; and
 - (b) Registrar who fails to register any such marriage within one week of receiving such

statement or to register any marriage contracted before him or her on the day on which it was contracted,

commits an offence.

Penalty: A fine of £5,000 or imprisonment for 3 months, or both.

False declarations

29. A person who—

- (a) knowingly and wilfully makes any false declaration, or signs any false notice or certificate required by this Ordinance, for the purpose of procuring any marriage; or
- (b) forbids the issue of any Registrar's certificate by falsely representing himself or herself to be a person whose consent to such marriage is required by law, knowing such representation to be false,

commits an offence.

Penalty: A fine of £5,000 or imprisonment for 3 months, or both.

Irregular procedure

30. (1) A person who knowingly and wilfully solemnises any marriage—

- (a) not being legally competent to do so; or
- (b) between parties not legally competent to contract such marriage; or
- (c) in any place other than the place specified in the notice and certificate under sections 9 and 10; or
- (d) before the issue of such certificate, or after the expiration of 3 months from the entry of such notice,

commits an offence.

Penalty: A fine of £5,000 or imprisonment for 3 months, or both.

(2) A Registrar who knowingly and wilfully—

- (a) issues any certificate of marriage, except within the period allowed by this Ordinance, or any certificate the issue of which is forbidden by any person authorised so to forbid such marriage; or
- (b) registers or allows to be contracted in his or her presence any marriage herein declared to be null and void,

commits an offence.

Penalty: A fine of £5,000 or imprisonment for 3 months, or both.

Destruction and forgery of documents

31. A person who—

- (a) unlawfully and maliciously erases, obliterates or destroys or knowingly and wilfully forges or alters or falsely makes or procures to be forged, altered or falsely made, any notice, licence, certificate, entry or statement mentioned in this Ordinance or any certified copy thereof; or
- (b) knowingly and wilfully utters or publishes as true any such forged, false or altered copy,

commits an offence.

Penalty: A fine of £5,000 or imprisonment for 3 months, or both.

**PART 6
MISCELLANEOUS**

Certified copies of extracts to be issued by Registrar

32. Every certified copy extract from the Register of Marriages for delivery to any member of the public must be issued and signed by the Registrar.

Regulations

33. (1) The Governor may make regulations generally for carrying into effect the provisions of this Ordinance.

(2) Without limiting subsection (1), regulations may provide for forms to be used, fees to be paid, and procedures to be adopted for or in connection with the operation of this Ordinance and for anything which is to be, or may be, prescribed under it.

MARRIAGE ORDINANCE, 2016

MARRIAGE (ASCENSION) REGULATIONS, 2016

(Section 33)

Citation

1. These Regulations may be cited as the Marriage (Ascension) Regulations, 2016.

Interpretation

2. For purposes of these Regulations –

- (a)* “**resident**” means a person who legally resides on Ascension and has been or will be physically present on Ascension for a continuous period of at least 12 months;
- (b)* any period of temporary absence does not constitute a break in the continuity of a period of residence.

Forms

3. (1) The form for giving notice of intended marriage under section 9 of the Ordinance is as set out in Form A in Schedule 1.

(2) The form for the certificate to be issued under section 10 of the Ordinance is as set out in Form B in Schedule 1.

(3) The form for the licence by the Governor under section 11 of the Ordinance is as set out in Form C in Schedule 1.

(4) The form for the statement of marriage and entry by a Minister under sections 21 and 22 of the Ordinance is as set out in Form D in Schedule 1.

(5) The form for the certificate of a marriage *in articulo mortis* under section 23 of the Ordinance is as set out in Form E for Ministers and Form F for the Registrar in Schedule 1.

Fees

4. The fees set out in Schedule 2 are payable in respect of the matters set out in it.

SCHEDULE 1

FORMS

FORM A
(Section 9)

FORM OF NOTICE OF MARRIAGE

To the Registrar of Marriages in the Island of Ascension

I, the undersigned hereby give you notice, that a marriage is intended to be had without [*or by, as the case may be*] Licence, within 3 calendar months from the date hereof between me and the other party herein named and described (that is to say):—

Name and Surname	Condition	Rank or Profession	Age	Dwelling Place	Church or Building in which Marriage is to be solemnised	Consent, if any by whom given

And I hereby solemnly declare, that I believe there is no impediment of consanguinity of affinity or other lawful hindrance to the said marriage (and that I the above-named have my usual place of abode and residence in).

[And I further declare that I am not a minor under the age of 18 years, and that the other party herein named and described is not a minor under the age of 18 years.

(If one or both of the parties be under age these words must be expunged.) (Or, as the case may be.)

And I further declare that she [or I] the said, not being a widow [or widower], is [or am] a minor under the age of 18 years, and that the consent of, whose consent to her [or my] marriage is required by law, has been duly given and obtained thereto [or “that there is no person whose consent to her (or my) marriage is by law required” (as the case may be)].

And I make the foregoing declarations solemnly and deliberately, conscientiously believing the same to be true, well knowing that every person who shall knowingly or wilfully make and sign or subscribe any false declaration or who shall sign any false notice or certificate for the purpose of procuring any marriage shall suffer the penalties of perjury.

In witness whereof I have hereunto set and subscribed my hand this ...day of in this year 20.....

Signed and declared by the above-named }
 in the presence of

[Here let the witness attest the signature of the party giving the notice.]

FORM B
 (Section 10)

REGISTRAR'S CERTIFICATE

I,, Registrar of Marriages in Ascension, do hereby certify that on the notice was duly entered in the Marriage Notice Book of Ascension, of the marriage intended between the parties named and described in it.

Delivered under the hand of, one of the parties, that is to say—

Name	Condition	Rank or profession	Age	Dwelling place	Place of worship or building in which marriage is to be solemnised

Date of notice entered }

Date of certificate given

The issue of this certificate [when the certificate is issued under licence from the Governor, insert “is authorised by licence of the Governor and”] has not been forbidden by any person authorised to forbid the issue of it.

Witness my hand this day of20...

(Signed), Registrar.

This certificate will be void unless the marriage is solemnised on or before

[The blanks in this Schedule to be filled up as the case may be.]

FORM E

(Section 23)

**MARRIAGE IN ARTICULO MORTIS
OFFICIATED BY A MINISTER**

I, the undersigned minister of ⁽¹⁾ authorised to solemnise marriages in ⁽²⁾ and we the undersigned of ⁽³⁾ and of ⁽³⁾ being of the age of 18 years or more do hereby certify that on the day of, 20....., the ceremony of marriage was performed by the said minister in the presence of the said witnesses

Between of ⁽⁴⁾ and of ⁽⁴⁾ and that both the said and at the time of the performance of such ceremony were of full age and were legally competent to contract marriage and to signify their consent thereto, and the said ⁽⁵⁾ is a member of the same religious communion or denomination to which the said minister belongs, that is to say, the ⁽⁶⁾; and that at the time of the performance of such Ceremony the said ⁽⁷⁾ was, to the best of our knowledge and belief, in a dying state.

Signatures—

- ⁽¹⁾ *State residence*
- ⁽²⁾ *State registered place of Worship*
- ⁽³⁾ *State residence and profession*
- ⁽⁴⁾ *State names, surnames and where widower or widow*
- ⁽⁵⁾ *Name of party in dying state*
- ⁽⁶⁾ *Religious communion or denomination*
- ⁽⁷⁾ *Name of party in dying state*

FORM F

(Section 23)

**MARRIAGE IN ARTICULO MORTIS
OFFICIATED BY THE REGISTRAR**

I, the undersigned Registrar of Ascension authorized to solemnise marriages and we the undersigned of ⁽¹⁾ and of ⁽¹⁾ being of the age of 18 years or more do hereby certify that on the day of, 20....., the ceremony of marriage was performed by the said Registrar in the presence of the said witnesses

Between of ⁽²⁾ and of ⁽²⁾ and that both the said and at the time of the performance of such ceremony were of full age and were legally competent to contract marriage and to signify their consent thereto, and at the time of the performance of such

Ceremony the said ⁽³⁾ was, to the best of our knowledge and belief, in a dying state.

Signatures—

⁽¹⁾ *State residence and profession*

⁽²⁾ *State names, surnames and where widower or widow*

⁽³⁾ *Name of party in dying state*

SCHEDULE 2

FEES

1.	For every certified copy of an entry in the Register	£6.50
2.	For entering a notice of intended marriage	£6.00
3.	For issuing a certificate pursuant to notice of intended marriage	£6.00
4.	For every search of the Register	Such fee as the Registrar may assess, not exceeding £50.00
5.	For every Governor's Licence	£60.00
6.	For contracting marriage before a Registrar: (If one party is a resident)	
	At Registrar's Office	£45.00
	At a place registered or agreed by the Registrar	£60.00
7.	For contracting marriage before a Registrar: (If neither party is a resident)	
	At Registrar's Office	£90.00
	At a place registered or agreed by the Registrar	£120.00
8.	For lodging a caveat	£6.00
9.	For registering any building to be used for the solemnisation of religious marriages	£60.00
10.	For registering any substituted building to be used for solemnisation of religious marriages	£30.00
11.	Application for registering premises as a place for the solemnisation of civil marriages	£10.00
12.	For registering any premises or agreeing a public location under section 5(b)(iii) to be used for the solemnisation of civil marriages	£10.00
13.	For every issue of a Marriage Certificate to the Minister	£6.00
14.	For correction made to Register	£6.00

