

ACT

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THE REGISTRATION OF CUSTOMARY
MARRIAGE AND DIVORCE ACT, 2007

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SIGNED this 23rd day of January, 2009

DR. ERNEST BAI KOROMA,
President.



No. 1



2009

Sierra Leone

**The Registration of Customary Marriage
and Divorce Act, 2009.**

Short title.

**Being an Act to provide for the registration of customary
marriages and divorces and for other related matters.**

/ / Date of com-
mencement.

ENACTED by the President and Members of Parliament in this
present Parliament assembled.

PART I—PRELIMINARY

- Interpretation. 1. In this Act, unless the context otherwise requires-
- “court” means a Magistrate’s Court or Local Court;
- “cohabiting persons” means persons who, while not married have lived as married persons for a period of not less than five years;
- Act No. 1 of 2004. “local council” means a local council established under the Local Government Act, 2004 and in whose jurisdiction a customary marriage is entered into or dissolved;
- Act No. 1 of 2004. “Local Council Chief Administrator” has the meaning assigned to it by section 1 of the Local Government Act, 2004;
- “Minister” means the Minister responsible for social welfare.

PART II - VALIDITY OF CUSTOMARY MARRIAGE

- Validity of customary marriage. 2. (1) Subject to this Act, a customary marriage, contracted after the coming into operation of this Act, shall be valid only if –
- (a) both spouses are not less than eighteen years old and consent to the marriage; and
- (b) the marriage is contracted in accordance with the customary law applicable to any of the spouses.
- (2) Where, either of the prospective spouses, not being a widow or widower, is less than eighteen years, it shall be necessary for the parents to give consent to the marriage and if the parents are

dead or unable for any reason to give such consent, then the consent may be given by the guardians of the prospective spouse or spouses to the marriage, as the case may be.

(3) If the consent of the parents or guardians cannot be obtained or is unreasonably withheld, a Magistrate or Local Government Chief Administrator of the locality in which the marriage is to take place may give his consent.

3. (1) No person already married under the Christian Marriage Act, the Muslim Marriage Act or the Civil Marriage Act shall enter a customary marriage with another person.

Relationship between customary marriage and marriage by Christian, Muslim or civil rites.

(2) Where spouses have simultaneously celebrated their marriage both by Christian, Muslim or civil rites and by customary rites, the consequences of such marriage shall be determined according to the law which the spouses have expressly agreed should apply.

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4. (1) Subject to subsection (2), a person who enters a customary marriage (whether it is potentially or actually polygamous) shall not subsequently marry any other person by Christian, Muslim or civil rites during the existence of the customary marriage.

Effect of customary marriage.

(2) A person may enter a Christian, Muslim or civil marriage after a customary marriage if it is with the same person with whom he entered the customary marriage and the customary marriage shall be deemed to have been dissolved after such Christian, Muslim or civil marriage.

Customary marriage of minors.

5. (1) A court may, on application, by order declare a customary marriage invalid on the grounds that either of the spouses is a minor.

(2) An application for an order under subsection (1) may be made by—

- (a) either of the spouses to the marriage before the attainment of majority or within a reasonable time thereafter; or
- (b) the guardian of a minor spouse, if he applies before the spouse attains majority and within a reasonable time of becoming aware of the existence of the marriage.

Co-habiting persons to be deemed married.

6. (1) Where the personal law of co-habiting persons is customary law and the persons—

- (a) are not below eighteen years; and
- (b) have lived together as husband and wife for a continuous period of not less than five years,

they shall be deemed to be married under customary law notwithstanding that they may not have performed any customary rites of marriage.

(2) A marriage deemed to have been contracted by virtue of subsection (1) may be registered under Part III.

PART III – REGISTRATION OF CUSTOMARY MARRIAGE

Obligation to register customary marriage.

7. As from the date of the coming into operation of this Act, any marriage contracted under customary law before or after that date shall be registered in accordance with this Part.

Application for registration of customary marriage.

8. (1) Where a marriage has been contracted under customary law, either party to the marriage or both parties shall apply in writing to the local council for registration of the marriage.

(2) The application for the registration of a marriage entered into before the date of the coming into operation of this Act shall be made within six months of that date and in the case of a marriage entered into after that date, the application shall be made within six months after the marriage.

9. (1) An application for registration of a marriage shall be accompanied by a statutory declaration stating the following:— Statutory declaration.

- (a) the names of the parties to the marriage;
- (b) the place of residence of the parties at the time of the marriage; and
- (c) that the conditions essential to the validity of the marriage in accordance with the applicable customary law have been complied with.

(2) The statutory declaration shall be supported by the parents or the guardians of the spouses but where there are no parents or guardians living at the time of the application, it shall be supported by a relative of each spouse not below the age of eighteen.

10. (1) A local council shall, upon receipt of an application for the registration of a marriage, register the marriage in the register set out in the First Schedule and shall, by notice in the form set out in the Second Schedule notify the public of the registration of the marriage. Local Council to register customary marriage.

(2) The notice shall be displayed on a public notice board in the office of the local council within twenty-eight days after the registration of the marriage.

11. (1) Any person who knows of any cause why the local council should not have registered the marriage or objects to the validity of the marriage under the applicable customary law may, at any time after the publication of the notice by the local council, file the grounds of his objection in the court. Objection to registration of customary marriage.

(2) Copies of the grounds of objection shall be served on the parties affected by the objection.

(3) If, upon the hearing of the grounds of objections the court is satisfied that—

- (a) there are no grounds for the objection it shall dismiss the objection;
- (b) there are grounds for the objection, the court may make an order empowering the local council to expunge any entries made in the register in respect of the registration of the marriage to which the objection was made.

(4) Where entries in the register have been expunged under subsection (3), the customary marriage shall be deemed not to have been contracted.

PART IV – REGISTRATION OF CUSTOMARY DIVORCE

Registration of customary divorce.

12. The dissolution of any marriage registered under this Act shall be recorded by the local council in the register of divorce set out in the Third Schedule.

Local Council to be notified of divorce.

13. (1) Where a marriage registered under this Act has been dissolved in accordance with the applicable customary law, either party to the marriage or both parties shall, within six months of the dissolution, notify the local council that the marriage has been dissolved.

(2) A notification under subsection (1) shall be accompanied by a statutory declaration stating that the marriage has been dissolved in accordance with the applicable customary law.

(3) The local council may, upon receipt of a notification, record the dissolution of the marriage in the register set out in the Third Schedule and may by notice in the form set out in the Second Schedule notify the public of the registration of the dissolution of the marriage.

(4) The notice shall be displayed on a public notice board in the office of the local council within twenty-eight days after the receipt of such notification.

14. (1) Any person who knows of any cause why the local council should not have registered the dissolution of the marriage may, at any time after the publication of the notice under section 13, file the grounds of his objection in a court. Objection to registration of dissolution of marriage.

(2) Copies of the grounds of objection shall be served on the parties affected by the objection.

(3) If, upon the hearing of the grounds of objection, the court is satisfied that -

- (a) there are no grounds for the objection, it shall dismiss the objection;
- (b) there are grounds for the objection, the court shall make an order empowering the local council to expunge all entries made in the register in respect of the dissolution of the marriage.

(4) Where entries in the register have been expunged under subsection (3), the customary marriage shall be deemed not to have been dissolved.

PART V – MISCELLANEOUS

15. Upon the registration of a marriage or the dissolution thereof under this Act, the local council shall issue to the parties concerned a certified copy of the entry in the register upon the payment of a fee determined by the local council. Certified copies of entries in register.

16. A local council shall, at all reasonable times, allow searches to be made of the register of marriage or divorce and shall furnish, on request and upon payment of a fee determined by it, a certified copy of any entry in the register. Searches.

Certified copies of entries shall be admissible as evidence.

17. In any proceedings, a copy of the entry in the register certified under the hand of the Local Council Chief Administrator of the local council shall be admissible in evidence as sufficient proof of the registration of the marriage or the dissolution thereof, as the case may be.

Capacity of wife in customary marriage.

18. A wife in a customary marriage shall have the capacity to personally acquire and dispose of properties and to enter into contracts in her own behalf.

Offences.

19. Any person who—

- (a) applies to a local council for the registration of any customary marriage or divorce which he knows has not been lawfully contracted or dissolved, as the case may be, under the applicable customary law;
- (b) knowingly makes any false entry in the register or a certified copy thereof; or
- (c) with intent to defraud, alters any entry in the register or certified copy thereof,

commits an offence and shall, on conviction, be liable to a fine not exceeding Le1,000,000 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

Regulations.

20. The Minister may, by statutory instrument, make such regulations as he may consider necessary for carrying into effect the provisions of this Act.

FIRST SCHEDULE

FORM OF REGISTER OF CUSTOMARY MARRIAGES

Name of husband	Age of husband	Date and place of marriage	Place of residence of husband	Other existing marriage	Signature or thumb-print of husband	Name and signature or thumb-print of witnesses	No. of receipt	Signature of Local Council Chief Administrator	Remarks

Name of wife	Age of wife	Date and place of marriage	Place of residence of wife	Condition (Spinster or Divorcee)	Signature or thumb-print of wife	Name and signature or thumb-print of witnesses	No. of receipt	Signature of Local Council Chief Administrator	Remarks

SECOND SCHEDULE

NOTICE OF REGISTRATION OF CUSTOMARY MARRIAGE OR DISSOLUTION OF CUSTOMARY MARRIAGE

NOTICE is hereby given that the marriage (or dissolution of the marriage) between the parties mentioned below was registered in the Register of Marriage and Divorces in accordance with the provisions of the Registration of Customary Marriage and Divorce Act, 2009 on theday of 20.....

Name of parties to the marriage	Place(s) of residence of parties	Place of marriage or dissolution of marriage	Date of marriage or dissolution of marriage

THIRD SCHEDULE

REGISTER OF DIVORCE

Names of divorcees	Date of marriage	Place and residence of divorcees	Date of dissolution of marriage	Signature or thumbprint of divorcees	No. of receipt	Signature of Local Council Chief Administrator

Passed in Parliament this *14th* day of *June*, in the year of our Lord two thousand and seven.

VICTOR A. KAMARA,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

VICTOR A. KAMARA,
Clerk of Parliament.

Note: (This Act No. 1 supersedes the Act No. 24 of 2007 by the same title published in Government Notice No. 155 as Supplement to the Sierra Leone Gazette No. 51 dated Thursday, 27th September, 2007).