

Malawi

Asiatics (Marriages, Divorce and Succession) Act Chapter 25:03

Legislation as at 31 December 2014

FRBR URI: /akn/mw/act/1929/13/eng@2014-12-31

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PDF created on 21 February 2024 at 12:05.

Collection last checked for updates: 31 December 2014.

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Malawi

Asiatics (Marriages, Divorce and Succession) Act

Chapter 25:03

Commenced on 19 December 1929

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

[Repealed by [Marriage, Divorce and Family Relations Act \(Act 4 of 2015\)](#) on 3 July 2015]

An Act to regulate the Marriage, Divorce, and Succession on death to Property of Non-Christian Asiatics in Malawi.

1. Short title

This Act may be cited as the Asiatics (Marriage, Divorce and Succession) Act.

2. Marriage of non Christian Asiatics

- (1) The marriage in Malawi of non-Christian Asiatics, whether domiciled in Malawi or not, who are not related to each other in any of the degrees of consanguinity or affinity prohibited by the law of the religion of either party to the marriage, shall, if the marriage is contracted in the manner customary in Malawi among persons professing the religion of either party to the marriage, be deemed for all purposes to be a valid marriage.
- (2) This section shall apply to marriages contracted either before or after the commencement of this Act, but shall not render valid any invalid marriage—
 - (a) which, before the commencement of this Act, has been declared to be invalid by any competent court; or
 - (b) where either party to the marriage has, before the commencement of this Act, lawfully contracted a subsequent marriage which would be avoided by the validation of the previous marriage.

3. Divorce of non-Christian Asiatics

- (1) The divorce in Malawi of either party to a marriage of non-Christian Asiatics, whether domiciled in Malawi or not, shall, if the divorce is on grounds which are recognized as valid grounds for divorce by the law of the religion of the person divorced and is effected in the manner customary in Malawi among persons professing that religion, be deemed for all purposes to be a valid divorce.
- (2) This section shall apply to divorces effected either before or after the commencement of this Act.

4. Saving of marriage

Nothing in this Act shall affect the Marriage Act, or permit the dissolution of a marriage contracted under that Act.

[Cap. 25:01]

5. Registration of non-Christian marriages and divorces

- (1) The Minister may, if he thinks fit, from time to time make Rules requiring the registration of all or any marriages contracted in Malawi by non-Christian Asiatics or of divorces from marriages between non-Christian Asiatics.
- (2) Separate or different Rules may be made with respect to the marriages or divorces of persons professing any religion.
- (3) Without prejudice to the generality of the foregoing provisions, any such Rules may—
 - (a) require the priest or other person performing the marriage ceremony or any witness to the marriage to issue a certificate of marriage in the prescribed form;
 - (b) provide for the issue of certificates of divorce;
 - (c) require a marriage or divorce to be registered within the period prescribed by the Rules;
 - (d) provide for the proof of a marriage or divorce registered under any such Rules;
 - (e) impose fees for the issue of certificates of marriage or divorce and for the issue of copies or translations of certificates of marriage or divorce or of certified extracts from any register and for the disposal of any such fees; and
 - (f) impose a fine not exceeding £50 or imprisonment of either description for a period not exceeding six months or both such fine and imprisonment for the breach or non-observance of any rule.

6. Saving of titles acquired for value

No alteration in law effected by this Act shall affect any title to property acquired for value before the commencement of this Act.

7. Ascertainment of law of a religion

- (1) For the purposes of this Act, the law of the religion of any person shall be that law subject to any special custom recognized and adopted by his co-religionists domiciled in Malawi, or, in the case of a Hindu, by members of the caste so domiciled.
- (2) A court may ascertain the law of any religion or any custom by any means which it thinks fit, and may act on information which appears to the court to be credible though it is not legal evidence, and in case of doubt or uncertainty may decide as the principles of justice, equity, and good conscience may dictate.