

PARLIAMENTARY DESK

Dutch Reformed Church of South Africa

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DATE: 2012-08-29

SUBJECT: Marriages Foreigners and Widows/Widowers/Divorcees

TO: All External Church Marriage Officers (*Conventus*)

IMPORTANT!

During the latest talks and negotiations with the Departement of Home Affairs (DHA) in Pretoria on 25 July, it was agreed that the following information/arrangements in connection with the confirmation of marriages by external marriage officers would be communicated to all concerned.

This meeting was also marked by a revisit to the principles whereby external marriage officers (such as church marriage officers) are appointed (or empowered) by the DHA (state) to conduct marriages in terms of Act 25 of 1961. When reflecting upon these matters, we should keep in mind that:

1. We have now entered into a new phase. At the dawn of our new constitutional dispensation the relationship between state and church is also revisited in terms of this function of church marriage officers.
2. The Marriage Act has undergone quite a few amendments, in other words: various amendments have been made to the Marriage Act in order to align it with two other acts, namely the *Customary Marriages Act 120 of 1998* and the *Civil Union Act 17 of 2006*. By the way, but still **important** to take note of: we as pastors of the Dutch Reformed Church (NG Kerk) are registered as marriage officers only in terms of Act 25 of 1961. This implies that none of us may conduct civil unions or customary marriages. Thus, one can only officiate as marriage officer according to the act that you were appointed/registered for.
3. The term/expression “external marriage officers” in contrast to “internal marriage officers” now becomes an important distinction, also in terms of communication by the department. The DHA has appointed and empowered a lot more officers as internal marriage officers in their local/regional offices. This implies that the idea of getting married “before the magistrate” only remains a technical term. Magistrates very seldom conduct any marriages. This duty is referred to officials of the court/DHA, who are responsible for conducting marriages on a daily basis, as arranged by the local DHA office.

4. Church marriage officers, now regarded as external marriage officers, are recommended for registration by their church/denomination. This is done primarily to enable them, as part of their official duties as ordained ministers/pastors, to serve their congregants in the most comprehensive way possible.
5. The presumption at point 4 above is that church marriage officers will only facilitate legal/state marriages where ONE or BOTH of the parties are indeed members of the external marriage officer's own church denomination, by whom he/she has been recommended for registration as a marriage officer. To be registered by the state as a church marriage officer should be considered a privilege so that pastors/ministers/priests are able to serve their OWN congregants more comprehensively in all aspects of life. It goes without saying that in doing so they also alleviate some of the DHA's pressure regarding the officiating of marriages of SA citizens.
6. The abovementioned implies that it is obvious that only those pastors/ministers/priests whose church/denomination officially warrants them as capable and competent to act as pastors qualify to be registered as marriage officers. Should a pastor lose his/her status as official pastor of his/her denomination (for whichever reason), the responsible Synodical/church office of that church, which is responsible for overseeing their ministers/pastors/priests, will inform the DHA about such a pastor to be deregistered. **All documentation** (the marriage register etc.) is then to be returned to the DHA.

Keeping in mind all of the above, is it important to take note of the following arrangements for the confirmation of marriages to be adhered to by all church marriage officers:

1. **FOREIGNERS:** In future external (church) marriage officers are requested not to conduct any marriage where one or both parties do not have South African citizenship (ID).

The reason for this request is to allow the state to determine beyond all doubt if the legal marital status of the foreigner will indeed allow him/her to be married (eg that he/she is not still married in the country of origin). The mechanisms to obtain all the relevant information of the marital status of a person at state embassies and government departments do not function adequately in all other countries. The DHA also has to determine if the foreigner has entered SA legally, has a legitimate work permit/visa etc.

Unfortunately, the honesty of individuals (with or without an affidavit or letter of no impediment) can no longer be taken at face value. The above arrangements are deemed necessary to prevent corruption and forgeries – which also includes the unlawful acquisition of citizenship by means of a marriage of convenience. This is becoming an ever increasing problem with the influx of thousands of citizens from other African countries into South Africa.

2. **WIDOWS/WIDOWERS/DIVORCEES:** It is of the **utmost importance** to ascertain if the current marital status of the people to be married allows them to be married. If we now assume that both parties are South African citizens, it **remains the responsibility of the marriage officer** to

ensure that he/she does not conduct a state marriage of someone whose official marital status is still recorded as “married.”

There are easy and efficient ways of verifying someone’s marital status. One way is by means of an ID number on the website of the DHA at www.dha.gov.za/marital_status.asp. Alternatively, send an SMS with “M + ID number of bride/groom” to 32551. This is a fast and efficient service – an answer is received within seconds.

Written proof (divorce certificate/death certificate) is to be checked in all instances and photo copies of the relevant documentation is to be handed in at the DHA together with the marriage register. Should the electronic check or a lack of sufficient written proof indicate that the official marital status of someone is still “married”, the registration of the death of the previous spouse, or the registration of the divorce will have to be finalized first, before going ahead with officiating the marriage.

This is one of the reasons why prospective marriage couples are urged to report timeously for all procedures pertaining to their marriage to be completed. Often the problem is caused by a lack of communication between the Department of Justice and the DHA. Should problems about someone’s marital status arise, the nearest DHA office is to be contacted for further assistance.

- 3. MARRIAGES ABROAD:** If an external (church) marriage officer is asked to conduct a marriage outside the SA borders, the following options are available:
- a. Where both parties are SA citizens, they may contact the SA Embassy. One of the designated officials there will be able to conduct their marriage. If so desired by the couple involved, the pastor/church marriage officer may then conduct a church marriage ceremony according to his/her own conviction and his/her denomination’s arrangements. It goes without saying that such an additional marriage ceremony is not officially registered at the DHA as well.
 - b. The external marriage officer may apply at the DHA to be granted a special one day-permit to conduct a marriage of South Africans abroad. Such an application is not handled by the local DHA office, only the head office in Pretoria is authorized to do so. This option implies that the involvement of the SA Embassy is not necessary – and is especially handy if there is no SA Embassy in the country where the marriage is to take place.
 - c. The marriage, when compliant with all the aforementioned requirements, may also be officially conducted within South Africa first. Afterwards an additional church marriage ceremony may take place at the desired location abroad. The nature of such church ceremonies are vested in the specific church denomination’s internal regulations thereof.
 - d. Should one, or both of the parties involved, not be SA citizens, their marriage is to be conducted in accordance with the country where they reside. Afterwards (and if requested

to do so), the external SA marriage officer conducts a church marriage ceremony. Once again, it goes without saying that such an additional marriage ceremony is not officially registered at the DHA as well.

In all cases point 1 above, which explains the arrangement about persons without a South African ID document, should be adhered to, no matter where the marriage is to take place.

Thank you for your support and cooperation in this regard.

Kind regards.

A handwritten signature in black ink, appearing to read 'Ben du Toit', with a horizontal line underneath the name.

Dr Ben du Toit

Parliamentary Desk

Dutch Reformed Church of SA