

MARRIAGE (INTRODUCTION OF CIVIL CELEBRANTS  
OF MARRIAGES AND GENERAL AMENDMENTS) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

Clause

Amendment Proposed

New

By adding -

**"3A. Section added**

The following is added -

**"2A. Certain notices are not  
subsidiary legislation**

A notice under section 5, 5A(4)(c), 5C(3),  
5D(6)(a), 5E(7) or 5J(5) is not subsidiary  
legislation."."

4

- (a) In the proposed section 5A(4)(c), by deleting "general".
- (b) In the proposed section 5C(3), by deleting "general".
- (c) In the proposed section 5D(1)(a), in the English text, by deleting "at".
- (d) In the proposed section 5D(1)(a)(i) and (ii), in the English text, by adding "at" before "the time".
- (e) In the proposed section 5D(3)(a), in the English text, by deleting "at".

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- (f) In the proposed section 5D(3)(a)(i) and (ii), in the English text, by adding "at" before "the time".
- (g) In the proposed section 5D(4), by deleting everything after ", the" and substituting "Registrar shall give the person a written notice of the intention and the reason for the proposed cancellation."
- (h) In the proposed section 5D, by adding -
  - "(4A) If the Registrar gives a notice to a person under subsection (4), the person may, within 14 days after the date of the notice or such longer period as the Registrar may allow, make representation to the Registrar in the manner specified in the notice.
  - (4B) The Registrar shall not cancel the appointment of a person until -
    - (a) the 14-day period or longer period (if any) referred to in subsection (4A) has expired and the person has not made any representation; or
    - (b) the person has made representation and the Registrar has considered the representation."
- (i) In the proposed section 5D(6)(a), by deleting "general".

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(j) In the proposed section 5E(3), by deleting everything after ", the" and substituting -  
"Registrar shall give the person a written notice of -

- (a) the intention;
- (b) the reason for the proposed suspension; and
- (c) the length of the proposed suspension period."

(k) In the proposed section 5E, by adding -

"(3A) If the Registrar gives a notice to a person under subsection (3), the person may, within 14 days after the date of the notice or such longer period as the Registrar may allow, make representation to the Registrar in the manner specified in the notice.

(3B) The Registrar shall not suspend the appointment of a person until -

- (a) the 14-day period or longer period (if any) referred to in subsection (3A) has expired and the person has not made any representation; or
- (b) the person has made representation and the Registrar has considered the representation."

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- (l) In the proposed section 5E(4) (a), by deleting "subsection (3) (a) (iii)" and substituting "subsection (3) (c)".
- (m) In the proposed section 5E(5) (a) (i), in the English text, by deleting "was" and substituting "is".
- (n) In the proposed section 5E(5) (a) (ii), by adding "subsequently" after "is".
- (o) In the proposed section 5E(5) (b) (i), in the English text, by deleting "was" and substituting "is".
- (p) In the proposed section 5E(5) (b) (ii), by adding "subsequently" after "is".
- (q) In the proposed section 5E(6), by adding ", during the suspension period," after "shall not".
- (r) In the proposed section 5E(7), by deleting "general".
- (s) In the proposed section 5F, by deleting "The" and substituting "Without prejudice to the generality of section 27(3), the".
- (t) By deleting the proposed section 5H(1) and substituting -

"(1) For the purpose of investigating and obtaining evidence of any suspected offence under this Ordinance or of any suspected contravention of a code of practice, the Registrar may request a civil celebrant to provide information in relation to the practice of the civil celebrant. The civil

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celebrant shall provide such information as soon as practicable upon receiving the request of the Registrar."

(u) In the proposed section 5H(2), in the English text, by deleting "at".

(v) In the proposed section 5H(2)(a) and (b), in the English text, by adding "at" before "the time".

6 By deleting the proposed section 6A(2).

7 By deleting the clause.

9 In the proposed section 12(1)(b)(i), by deleting "not any impediment of kindred or alliance" and substituting "no impediment of kindred or affinity as provided in section 27(1)".

12(16) By adding after the proposed section 21(7) -

"(8) For the avoidance of doubt, if a marriage is celebrated by a civil celebrant, the civil celebrant shall not act as a witness to that marriage."

13 By deleting the clause and substituting -

**"13. Invalid marriages**

(1) Section 27(1) is repealed and the following substituted -

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"(1) A marriage shall be null and void on the ground of kindred or affinity as provided in Schedule 5."

(2) Section 27(2) is repealed and the following substituted -

"(2) A marriage shall be null and void -

(a) if -

(i) it is not celebrated -

(A) by the Registrar in the office of the Registrar;

(B) by a competent minister in a licensed place of worship; or

(C) by a civil celebrant in accordance with section 21(3A),

and it is not -

(D) authorized by a special licence;

(E) celebrated under paragraph (b) of the proviso to section 21(3); or

(F) celebrated under section 39;

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- (ii) it is celebrated under a false name; or
- (iii) no certificate of the Registrar has been issued or no special licence has been granted in respect of the marriage,

and both parties knowingly and wilfully acquiesce in its celebration in such circumstances; or

- (b) if at the time of its celebration any party is under 16 years of age."."

- 16
- (a) In the proposed section 31A(1), by adding "without reasonable excuse" after "who".
  - (b) In the proposed section 31A(3), by adding "without reasonable excuse" after "who".
  - (c) By deleting the proposed section 31A(4).
  - (d) In the proposed section 31A(5), by adding "without reasonable excuse" after "who".

- 17
- (a) In the proposed section 33A(1), by deleting "1 year" and substituting "2 years".
  - (b) In the proposed section 33B, by deleting "level 4" and substituting "level 5 and imprisonment for 2

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years".

New By adding -

**"17A. Section added**

The following is added -

**"34A. Time limit for prosecution**

Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings for an offence against section 29, 30(a), 30(b), 32, 33, 33A(1), 33B, 39(3)(a) or 39(3)(b) may be brought within 6 months after the act or omission alleged to be constituting the offence is discovered by or comes to the notice of the prosecutor."."

- 21 (a) In subclause (2), in Part I of the proposed Form 1, by deleting "婚姻現況" and substituting "婚姻狀況".
- (b) In subclause (3), in paragraph (c) of the proposed Form 5, in the Chinese text, by deleting "可被我" and substituting "可被".

- 22(1) (a) In the English text, by deleting -  
"Second Schedule [s. 36]"  
and substituting -

"SECOND SCHEDULE [s. 36]".

- (b) In the English text, by deleting -

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"Schedule 2 [ss. 2 & 36]"  
and substituting -

"SCHEDULE 2 [ss. 2 & 36]" .

23 (a) In the English text, by deleting -

"Third Schedule [ss. 14, 18A & 42]"

and substituting -

"THIRD SCHEDULE [ss. 14, 18A & 42]" .

(b) In the English text, by deleting -

"Schedule 3 [ss. 14, 18A & 42A]"

and substituting -

"SCHEDULE 3 [ss. 14, 18A & 42A]" .

24 (a) In the proposed Schedule 4, in paragraph 1(a)(i),  
by adding "and the Legal Practitioners (Risk  
Management Education) Rules (Cap. 159 sub. leg. Z)"  
before "; and" .

(b) In the proposed Schedule 4, by deleting paragraph  
1(a)(ii) and substituting -

"(ii) holding a certificate issued by The Law  
Society of Hong Kong -

(A) certifying that he has practised as  
a solicitor; or

(B) upon a statutory declaration by him  
in such form as the Council of The  
Law Society of Hong Kong may  
determine certifying that he has

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been employed while his name is on the roll of solicitors within the meaning of the Legal Practitioners Ordinance (Cap. 159) to provide legal service to the employer, for a period or periods in aggregate of not less than 7 years; or".

26(2) By deleting -

"section 31A(4) civil celebrant charging prohibited fee".

27 (a) In subclause (1), by deleting "(zo)" and substituting "(zp)".

(b) In subclause (2), by deleting "(zp)" and substituting "(zq)".

(c) In subclause (3), by deleting "(zq)" and substituting "(zr)".

35 By deleting subclauses (3) and (4) and substituting -

"(3) Section 7(3) is amended by repealing "the notices filed in his office under this section and copies" and substituting "all notices of intended marriage filed in his office under this section and copies of Part I".

(4) Section 7(4) is amended by repealing "filed under this section, produce to such person for inspection a copy" and substituting "of

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intended marriage filed under this section, produce to such person for inspection a copy of Part I".".

50 By deleting the clause and substituting -

**"50. Section substituted**

Section 29 is repealed and the following substituted -

**"29. Marrying, etc., person under 21 without required consent**

Any person who, knowing that -

- (a) a written consent under section 14 is required in respect of the marriage of a party under 21 years of age; and
- (b) no such consent has been obtained,

marries or assists or procures any other person to marry the person referred to in paragraph (a) shall be guilty of an offence and shall be liable to a fine at level 5 and imprisonment for 2 years."."

51 (a) By renumbering the clause as clause 51(1).

(b) By adding -

"(2) Section 30 is amended by repealing everything after "an offence" and substituting "and shall be liable to a fine at level 5 and

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imprisonment for 2 years."."

52 By deleting everything after "amended by" and substituting "repealing everything after "shall be" and substituting "guilty of an offence and shall be liable to a fine at level 5 and imprisonment for 2 years."."

New By adding -

**"52A. Penalty on unauthorized person celebrating marriage**

Section 33 is amended by repealing everything after "an offence" and substituting "and shall be liable to a fine at level 5 and imprisonment for 2 years."."

57 (a) By adding -

"(1A) Section 39(1) is amended, in the proviso, in paragraph (c), by repealing ", in England or Wales" and substituting "as provided in section 27(1)"."

(b) By adding -

"(2A) Section 39(3) is amended by repealing everything after "an offence" and substituting "and shall be liable to a fine at level 5 and imprisonment for 2 years."."

New By adding after clause 57 -

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**"57A. Section added**

The following is added -

**"45. Saving**

The amendments made to section 27 and paragraph (c) of the proviso to section 39(1) by the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Ordinance ( of 2005) shall not -

(a) validate a marriage which would have been invalid; or

(b) invalidate a marriage which would have been valid,

but for the enactment of that Ordinance."."

58(1) In the proposed Form 2, by deleting "就下述人士擬締結的婚姻已於 年 月 日" and substituting "於 年 月 日就下述人士擬締結的婚姻".

New By adding -

**"60. Schedule 5 added**

The following is added -

"SCHEDULE 5 [s. 27]

KINDRED AND AFFINITY

PART 1

1. In this Schedule -

"brother" (兄弟) includes a brother of the

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half blood;

"child" (兒童) means a person under the age of 18;

"child of the family" (家庭子女), in relation to any person, means a child who has lived in the same household as that person and been treated by that person as a child of his family;

"sister" (姊妹) includes a sister of the half blood.

2. A marriage -

(a) solemnized between a man and any person specified in the first column of Part 2; or

(b) solemnized between a woman and any person specified in the second column of Part 2,

shall be null and void.

3. Subject to paragraph 4, a marriage -

(a) solemnized between a man and any person specified in the first column of Part 3; or

(b) solemnized between a woman and any person specified in the second column of Part 3,

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shall be null and void.

4. A marriage referred to in paragraph 3 shall not be null and void by reason only of affinity if -

(a) both the parties to the marriage have attained the age of 21 at the time of the marriage; and

(b) the younger party has not at any time before attaining the age of 18 been a child of the family in relation to the other party.

5. Subject to paragraph 6, a marriage -

(a) solemnized between a man and any person specified in the first column of Part 4; or

(b) solemnized between a woman and any person specified in the second column of Part 4,

shall be null and void.

6. A marriage referred to in paragraph 5 shall not be null and void by reason only of affinity if -

(a) both the parties to the marriage have attained the age of 21 at the time of the

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marriage; and

(b) the marriage is solemnized -

(i) in the case of a marriage between a man and the mother of a former wife of his, after the death of both the former wife and the father of the former wife;

(ii) in the case of a marriage between a man and the former wife of his son, after the death of both his son and the mother of his son;

(iii) in the case of a marriage between a woman and the father of a former husband of hers, after the death of both the former husband and the mother of the former husband; or

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(iv) in the case of a marriage between a woman and a former husband of her daughter, after the death of both her daughter and the father of her daughter.

PART 2

Prohibited degrees of relationship referred to in paragraph 2 of Part 1

For men	For women
Mother	Father
Adoptive mother or former adoptive mother	Adoptive father or former adoptive father
Daughter	Son
Adoptive daughter or former adoptive daughter	Adoptive son or former adoptive 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
Father's sister	Father's brother
Mother's sister	Mother's brother

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Brother's daughter	Brother's son
Sister's daughter	Sister's son

PART 3

Degrees of affinity referred to in paragraphs 3 and 4 of Part 1

For men	For women
Daughter of former wife	Son of former husband
Former wife of father	Former husband of mother
Former wife of father's father	Former husband of father's mother
Former wife of mother's father	Former husband of mother's mother
Daughter of son of former wife	Son of son of former husband
Daughter of daughter of former wife	Son of daughter of former husband

PART 4

Degrees of affinity referred to in paragraphs 5 and 6 of Part 1

For men	For women
Mother of former wife	Father of former husband
Former wife of son	Former husband of daughter".".

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