

# [ Act No. 3613, December 04, 1929 ]

## THE MARRIAGE LAW

*Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:*

### PRELIMINARY CHAPTER

#### TITLE OF ACT

PRELIMINARY SECTION. *Title of Act.*—This Act shall be known as the Marriage Law.

### CHAPTER I

#### MARRIAGE REQUISITES

SECTION 1. *Essential requisites.*—Essential requisites for marriage are the legal capacity of the contracting parties and their consent.

SEC. 2. *Legal capacity.*—Any male of the age of sixteen years or upwards, and any female of the age of fourteen, years or upwards, not included in any of the exceptions mentioned in sections twenty-eight and twenty-nine of this Act, may contract marriage.

SEC. 3. *Mutual consent.*—No particular form for the ceremony of marriage is required, but the parties with legal capacity to contract marriage must declare, in the presence of the person solemnizing the marriage and of two witnesses of legal age, that they take each other as husband and wife. This declaration shall be set forth in an instrument in triplicate, signed by signature or mark by the contracting parties and said two witnesses and attested by the person solemnizing the marriage.

In case of a marriage on the point of death, when the dying party, being physically unable, cannot sign the instrument by signature or mark, it shall be sufficient for one of the witnesses to the marriage to sign in his name, which fact shall be attested by the minister solemnizing the marriage.

SEC. 4. *Persons authorized to solemnize marriages.*—Marriage may be solemnized by—

- (a) The Chief Justice and Associate Justices of the Supreme Court;
- (b) Judges and auxiliary judges of Courts of First Instance;
- (c) The municipal judges of Manila and justices of the peace, and
- (d) Priests or ministers of the gospel of any denomination, church, sect or religion, and chaplains of the Army or Navy of the United States registered in the Philippine National Library, as provided in Chapter IV of this Act.

SEC. 5. *Place where solemnized.*—The marriage shall solemnized publicly in the office of the justice or court or in the church, chapel, or temple, according to whether it is performed by an official or by a priest or minister of any denomination, church, sect or religion, and not elsewhere, except in cases of marriages contracted

on the point of death or in remote places in accordance with section twenty of this Act, or when one of the parents or the guardians of the female or the latter herself if over eighteen years of age, request it in writing, in which cases the marriage may be solemnized at the house or place designated by said parent or guardian of the female or by the latter herself in a sworn statement to that effect.

SEC. 6. *Meaning of church, chapel, or temple.*—For the purposes of this Act, a church, chapel, or temple shall be any building constructed of strong, mixed, or light materials, open to the faithful at suitable hours of the day and set aside for the celebration of religious services and the solemnization of marriages and other sacred ceremonies.

SEC. 7. *Formal requisites—Marriage license.*—With the exception of the marriages of an exceptional character authorized in Chapter II of this Act, no marriage shall be solemnized in the Philippine Islands without a license first being issued by the municipal secretary of the municipality where the female has her habitual residence, or by the clerk of the Municipal Court if residing in the City of Manila. Said officials shall issue the proper license if each of the contracting parties swears separately before them or before any public official authorized to administer oaths or any priest or minister authorized to solemnize marriage, to an application in writing setting forth that such party has the necessary qualifications for contracting marriage in conformity with this Act. Such application shall in so far as possible contain the following data:

- (a) Full name of the contracting party.
- (b) Place of birth.
- (c) Age, date of birth.
- (d) Civil status (single, widow or widower, or divorced).
- (e) If divorced, how and when the previous marriage was dissolved.
- (f) Present residence.
- (g) Degree of relationship of contracting parties.
- (h) Full name of father.
- (i) Residence of father.
- (j) Full name of mother.
- (k) Residence of mother.
- (l) Full name and residence of guardian or person having charge (in case the contracting party has neither father nor mother and is under the age of twenty years, if a male, or eighteen years, if a female).

SEC. 8. *Baptismal certificate—Instrument in lieu thereof.*—The municipal secretary or clerk of the Municipal, Court of the City of Manila, as the case may be upon receiving such application, shall require the exhibition of the original baptismal or birth certificates of the contracting parties or copies of such documents duly attested by the persons having custody of the originals. These certificates or certified copies of the documents required by this section need not be sworn to and shall be exempt

from the documentary stamp tax. The signature and official title of the person issuing the certificate shall be sufficient proof of its authenticity.

If either of the contracting parties is unable to produce his baptismal or birth certificate or a certified copy of either because of the destruction or loss of the original, or if it is shown by an affidavit of such party or of any other person that such baptism birth certificate has not yet been received though the same has been requested of the person having custody thereof at least fifteen days prior to the date of the application, such party may furnish in lieu thereof an instrument drawn up and sworn to before the clerk of the Municipal Court of Manila or before the municipal secretary concerned or any public official authorized to solemnize marriage. Such instrument shall contain the sworn declaration of two witnesses of lawful age, of either sex, setting forth the full name, profession, and residence of such contracting party and of his or her parents, if known, and the place and date of birth of such party. The nearest of kin the contracting parties shall be preferred as witnesses, and in their default persons well known in the province or the locality for their honesty and good repute.

The exhibition of baptismal or birth certificates shall not be required if the parent; the contracting parties appear personally before the municipal secretary or before the clerk of the Municipal Court of Manila, as the case may be, and swear to the correctness of the age of said parties.

*SEC. 9. Requisites for widowed divorced persons and minors.*—In case either of the contracting parties is a widowed or divorced person, the same shall be required to furnish, instead of the baptismal or birth certificate required in the last preceding section, the death certificate of the deceased spouse or the decree of the divorce court, as the case may be. In case the death certificate cannot be found, the party shall make an affidavit setting forth this circumstance and his actual civil status and the name and the date of the death of the deceased spouse.

In case the contracting parties or either of them, being single, are less than twenty years of age as regards male and less than eighteen years as regards the female, they shall, in addition to the requirements of the preceding sections, exhibit to the municipal secretary or to the clerk of the Municipal Court of the City of Manila, as the case may be, the consent to their marriage of their father, mother or guardian, or person having legal charge of them, in the order mentioned. Such consent shall be in writing, under oath taken with the appearance of the interested parties before the proper municipal secretary or the clerk of the Municipal Court of Manila, or in the form of an affidavit made in the presence of two witnesses and attested by a priest or minister authorized to solemnize marriage, or before any official authorized by law to administer oaths.

*SEC. 10. Issuance of marriage license.*—The municipal secretary or the clerk of the Municipal Court of Manila, as the case may be, shall post during ten consecutive days in a conspicuous place in the building where he has his office, a notice setting forth the full names and domiciles, of the applicants for marriage licenses, their respective ages, and the names of their parents if living or of their guardians if otherwise. The license applied for shall be issued at the expiration of said period; but if either of the applicants and a priest or minister of the religion professed by such applicant state in writing and under oath that the rules and practices of the church; sect, or religion under which such applicant desires to contract marriage require banns or publications prior to the solemnization of the marriage, and that

said church, sect, or religion complies with said rules and practices and has obtained the proper certificate from the Director of the Philippine National Library, it shall not be necessary for the municipal secretary or the clerk of the Municipal Court of Manila to make the publication required in this paragraph, and in this case the license shall issue immediately after the filing of the application and shall state the church, sect, or religion in which the marriage is to be solemnized. Neither shall such publication be necessary if the father, mother, guardian, or person in charge of each of the contracting parties, whether the latter be over or under twenty, if male, or eighteen years of age, if female, accompany the same when they apply for the license, in which case such license shall be issued immediately, after preparation of a document in duplicate signed by the persons above mentioned, the duplicate to be attached to the license and the original to be filed.

SEC. 11. *Fees—Validity of license.*—The municipal secretary or clerk of the Municipal Court of Manila, as the case may be, shall require the previous payment into the municipal treasury of two pesos for each license issued, which fee shall accrue to the school funds of the municipality in which it is paid. The license shall be valid in any part of the Philippine Islands; but it shall be good for no more than one hundred and twenty days from the date on which issued and shall be deemed cancelled at the expiration of said period if the interested parties have not made use of it.

SEC. 12. *Prohibition of issuance of license.*—Upon compliance with all the legal requirements of sections seven, eight, nine, ten, eleven, and thirteen of this Act, the duty to issue the marriage license is ministerial. However, a marriage license shall not issue in case the municipal secretary or clerk of the Municipal Court of Manila, as the case may be, is convinced, in view of authentic documentary evidence in his possession, that the applicants—

- (a) Are related to each other in the degrees of relationship specified in section twenty-eight, or
- (b) Have not the legal age provided for in section two.

SEC. 13. *Marriage license in case of members of the United States Army or Navy or Americans and foreigners not residing in the Philippine Islands.*—When both contracting parties, or the female, are citizens of the United States or of any of the territories thereof, but not habitual residents of the Philippine Islands, or when they are subjects of foreign countries whose habitual residence is not in this country, or when they are members of the United States Army or Navy, it shall be necessary for the contracting parties, before a marriage license can issue, to provide themselves with a certificate of legal capacity to contract marriage, in the following manner:

When both contracting parties, or the woman, are citizens at the United States or of any of the territories thereof they shall apply to the office of the Governor-General for a certificate of legal capacity to contract marriage. The once of the Governor-General is hereby authorized to investigate and determine whether or not there is any legal impediment to the issuance of a marriage license, and to issue the proper certificate if no such impediment is found.

Subjects of foreign countries shall apply to their respective consuls for such certificates. The consuls are hereby authorized to issue certificates of legal capacity once it has been shown, upon investigation, that there is no legal impediment to the solemnization of the marriage between the applicants. In case both applicants are not subjects of the same country, their respective consuls are likewise authorized to

issue said certificates to their respective subjects and the certificates of both consuls shall be necessary to obtain the marriage license.

When the applicants, or one of them, are members of the United States Army or Navy, whatever be their citizenship and whether or not their habitual residence be in the Philippine Islands, the certificate shall be obtained from the post commander or other commander under whose immediate orders the interested party is serving, instead of being secured in the office of the Governor-General, and said officers are hereby authorized to issue such certificate after having made the proper investigation.

Upon delivery of any of the certificates referred to in this section, and upon payment of the fees required in section eleven of this Act, the clerk of the Municipal Court of Manila or the municipal secretary concerned shall forthwith issue the marriage license.

SEC. 14. *Definition of habitual residence.*—For the purposes of this Act, the habitual residence of the female shall be deemed to be the residence of her parents or guardian, if such female is less than eighteen years of age, and if over said age, the place where she lived uninterruptedly for at least one year prior to the date of the application for the marriage license.

SEC. 15. *Marriage certificate.*—The marriage certificate in which the contracting parties shall state that they take each other as husband and wife, referred to in section three of this Act, shall also contain:

- (a) The full names and domiciles of the contracting parties;
- (b) The age of each; and
- (c) A statement that the proper marriage license has been issued under this Act and that the contracting parties have the consent of their parents in case the male is under twenty or the female under eighteen years of age.

SEC. 16. *Certificate to be sent to authorities.*—It shall be the duty of the person solemnizing the marriage to furnish to either of the contracting parties one of the three copies of the marriage contract in triplicate referred to in section three of this Act, and to send another copy of said document not later than fifteen days after the marriage took place to the clerk of the Municipal Court of Manila or the municipal secretary of the municipality where the marriage was solemnized, as the case may be. The official, priest, or minister solemnizing the marriage shall retain the third copy of the marriage contract, the marriage license and the affidavit of the interested party regarding the solemnization of the marriage in a place other than those mentioned in section five of this Act, if there be any such affidavit, in the file that he must keep.

SEC. 17. *Duties of clerk of court and municipal secretary—Exemption from fees.*—It shall be the duty of the municipal secretary or the clerk of the Municipal Court of Manila or, in their absence, of the employees acting in their stead, to (1) prepare the documents required by this Act and (2) administer oaths to all interested parties without any charge in both cases.

In municipal districts or other political subdivisions where there are no municipal secretaries, the duties imposed upon the latter by this Act shall be performed by the