

BILL

To amend the Marriage Act, 1961 so as to define the terms marriage, same sex marriage and spouse; to prohibit same sex marriage, solemnization of same sex marriage and the recognition of same sex marriage in Namibia; and to provide for incidental matters.

(Introduced by Jerry Ekandjo, Private Member)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 1 of Act No. 25 of 1961 as amended by Act No. 51 of 1970 and section of Act No. 1 of 1996

1. Section 1 of the Marriage Act, 1961 (in this Act referred to as the "principal Act") is amended by -

(a) the insertion after the definition of "magistrate" of the following definition:

"marriage" means a legal union entered into between persons of opposite sex in accordance with this Act;

(b) the insertion after the definition of "Minister" of the following definitions:

"same sex marriage" means a union entered into between persons of same sex;

"spouse", wherever it occurs in this and any other legislation, means a partner in a marriage between persons of opposite sex.

Insertion of section 10A in Act No. 25 of 1961

2. The principal Act is amended by the insertion after section 9 of the following section:

“Prohibition of same sex marriage”

10A. (1) A person may not enter into a contract of marriage with a person of the same sex.

(2) Notwithstanding any other laws including common law, a same sex marriage entered into and solemnized outside Namibia is not recognized as valid in Namibia, and cannot produce any entitlement to any benefit that may accrue to spouses by virtue of a valid marriage.

(3) A marriage officer or a person by any designation may not solemnize, witness, promote or propagate a marriage between persons of same sex.

Amendment of section 11 of Act No. 25 of 1961 as amended by Act 5 of 1987

3. The principal Act is amended by the substitution for subsection (2) of section 11 of the following subsection:

“(2) Any marriage officer who purports to solemnize a marriage which he or she is not authorized under this Act to solemnize or which to his or her knowledge is legally prohibited, [and] or any person not being a marriage officer who purports to solemnize a marriage or witness, promote or propagate same sex marriage. [shall be guilty of] commits an offence and is liable [on conviction] to a fine not exceeding [R1 000] N\$100 000 or, in default of payment, to imprisonment for a period not exceeding [12 months] six years, or to both such fine and such imprisonment.

Short title

4 This Act is called the Marriage Amendment Act, 2023.