



**MANUAL ON**  
**The Registration of Customary Marriage and**  
**Divorce ACT 2007**

**The Lawyers Centre for Legal Assistance**  
**LAWCLA**  
**Sierra Leone**

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A document by the

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**(LAWCLA)**

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1.

## **DEFINITIONS**

**Court:** a Magistrate's court or a local court.

**Cohabiting Persons:** persons who are living together in the same house as lovers for a period not less than five years and they are not married.

**Local Council:** a local council created under the Local Government Act, 2004 and in whose power is to register customary marriage and divorce.

**Local Council Chief Administrator:** has the meaning given to it by section 1 of the Local Government Act, 2004.

**Minister:** the Minister responsible for social welfare.

## **2. *Validity of Customary Marriage***

The conditions for a customary marriage to be valid under the law are:

- The individuals who want to get married must have reached the age of 18 years.
- The two individuals who want to get married must agree to it.
- The marriage must be accepted under the customary law and it must affect the two individuals who have decided to get married
- If the individuals who want to get married are under the age of 18 years their parents/ guardians need to agree to the marriage.
- If it is difficult for the parents/ guardian to agree, the Local Government Chief Administrator can give go ahead to the marriage.

**3. What happens when one marries Customarily and marries again in a Mosque, Church or Civil Marriage?**

Any person who is married under a Christian, Muslim or Civil Marriage cannot marry the same person he is married to under a customary marriage

And is not allowed to get married to another person under customary marriage.

If the person who has married has at the same time got marriage both in a Church, Mosque or through a civil marriage and by a customary marriage, it is left with the individuals who has married under these two ceremonies to choose which ceremony would have effect on their marriage.

#### **4. *Effects of Customary Marriage***

A person who has married many wives (polygamy) must not marry any other woman by using a Christian, Muslim or civil marriage ceremony to marry again.

A person can marry under a Christian, Muslim or Civil marriage if it is the same person whom he had married under a customary marriage. The law would then say that the customary marriage has come to an end and that the Christian, Muslim or Civil marriage has more weight.

**5. *Can a marriage of a person who is under age be cancelled?***

A court can state that a customary marriage is invalid if one of the individual who is married is under age. The written request to the court to make the marriage invalid can be made by one of the married individuals or the person who is taken care of the underage person who has married. This written request to the court must be made before the individual who has got married turns eighteen years of age.

**6. *Can someone oppose another person from marrying customarily?***

**Answer:** yes, but the person who does so must have a very sober and good reason.

## **7. Should Cohabitation be regarded as marriage?**

When a man and a woman have lived together as lovers in the same house for a period of five years and they are not below eighteen years of age. The law shall look at them as married couple. Even though they have not undergone any customary marriage.

## **8. Registration of Customary Marriage**

(A) Who should register customary marriage?

*Answer:* It is the local council.

(B) Is it compulsory to register customary marriage?

*Answer:* Yes, the law state that it should be Registered

(C) What about customary marriage that was done before this law was passed, should they also be registered?

*Answer:* Yes they should be registered as far as this New law is concerned

(D) Can registration of divorce happened in the case of customarily law?

*Answer:* Yes the local council must register such divorce

(E) What happens if someone falsifies the registration of a customarily marriage or divorce?

*Answer:* That person shall be guilty of an offence and sentenced to one year imprisonment or to pay a fine of one million leones or to be jailed for a period of one year and at the same time fine one million leones.

**9. *Is the Independence of Women Guaranteed under this law?***

**Answer:** Yes it is guaranteed under this law.

A wife in a customary marriage has the ability to own, sell, give out and get rid of property and to make business agreements for herself.

## **ABOUT THE LAWYERS CENTRE FOR LEGAL ASSISTANCE (LAWCLA)**

LAWCLA was established in March 2001 partly due to a concern by the founder about the deplorable human rights situation in the country and the limited access to justice and the law by the majority of victims of human rights violations, especially indigent members of the society.

LAWCLA is an independent, non-political, non-profit making and public interest Human Rights Law Centre which among other things provides free legal services to poor members of the public.

LAWCLA's mission is *"to make the Law and Justice more accessible to indigent members of the public through Legal Advice, Impact Litigation and Research"*.

LAWCLA's human rights work is unique in one respect that, it is Sierra Leone's first and only organization to date involved in Public Interest Litigation and providing free Legal Aid.

As a non-profit making Institution, the Centre is dependent upon donation and grants from wide variety of sources.

**The Centre welcomes your Technical, Financial and Moral Support.**

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