

7 FAM 1450 MARRIAGE OF U.S. CITIZEN ABROAD

7 FAM 1451 ROLE OF CONSULAR OFFICER

(TL:CON-56; 6-30-93)

a. *Consular officers are frequently approached for assistance by U.S. citizens planning to be married abroad. Our citizens often harbor misconceptions about the authority and permissible actions of consular officers in marriage abroad.*

b. *Until November 9, 1989, consular officers, when requested to do so, could make certain that foreign marriages were effective for purposes of U.S. law by acting as official witnesses to the marriage, when one of the contracting parties was a U.S. citizen, pursuant to the authority of Section 31 of the Act of June 22, 1860 (12 Stat. 79; 22 U.S.C. 4192). The Act also provided for issuance of an official certificate of witness to such marriage.*

c. *Section 31 was repealed, effective February 16, 1990, by Section 123 of the FY 1990-1991 Foreign Affairs Authorization Act. The role of the consular officer is now limited to providing information obtained from foreign officials on requirements for local marriages and performing notarial and authentication services.*

d. *Certificates of Witness to Marriage, issued by consular officers pursuant to Section 31 of the Act of June 22, 1860, prior to its repeal, remain valid. Such certificates, using the most recent edition of Form FS-87, were issued from when it was revised in October 1939, until November 9, 1989.*

7 FAM 1452 INFORMATION ON MARRIAGE ABROAD

(TL:CON-56; 6-30-93)

Posts may wish to prepare and provide inquirers with a flyer listing legal requirements for marriage under the laws of the host government in their consular jurisdiction. Such flyers may also include appropriate information on U.S. visa requirements for foreign spouses/fiancees.

7 FAM 1453 AFFIDAVIT OF ELIGIBILITY TO MARRY

7 FAM 1453.1 Foreign Countries' Requirements

(TL:CON-56; 6-30-93)

a. *Some countries require persons who wish to marry to provide written proof, issued by governmental authority, that there is no legal impediment to the marriage. No such document, or governmental authority to issue such document, exists in the United States.*

b. *In consular districts with such requirements, a notarized statement from the U.S. citizen party to the marriage, affirming that the citizen is free to marry, often is accepted in lieu of a governmental statement. Any affidavit in such a case should include a statement to the effect that the post has no information concerning the affiant's marital status.*

c. *Posts may wish to ascertain informally, when such requirement is present, whether the host government would consider amending its own marriage license/registration requirements, clearly to permit the parties to the marriage to attest that they are free to marry.*

7 FAM 1453.2 Form of Affidavit or Sworn Statement

(TL:CON-56; 6-30-93)

The Department has developed no standardized general form of an Affidavit of Eligibility to Marry. When a party to a marriage is required to provide a notarized statement of eligibility to marry, the document must contain sufficient information to satisfy the local authorities. After ascertaining what is acceptable, posts may wish to prepare for use in their own consular district an appropriate form of such a document, with CA/OCS/CCS guidance as necessary. Depending on the frequency of its use, posts may wish to reproduce it and keep an adequate supply in stock.

7 FAM 1453.3 Execution of Affidavit or Sworn Statement

(TL:CON-56; 6-30-93)

An Affidavit (or sworn statement) of Eligibility to Marry is executed as any other affidavit or notarized statement [see § 7 FAM 826 , § 7 FAM 831 , and § 7 FAM 832].

NOTE: "Affidavit" may or may not be the correct term under local law. "Statement" may be more appropriate.

7 FAM 1453.4 Fee

(TL:CON-56; 6-30-93)

The fee charged for the execution of the affidavit (or statement) is that currently prescribed by the Schedule of Fees for affidavits, item 45(b).

7 FAM 1454 FORM LETTER ON MARRIAGE STATUS

(TL:CON-56; 6-30-93)

Many countries decline to give their nationals any sort of certificate or affidavit, providing instead a form letter which explains that they have no information regarding their national's marital status. Posts should consider the use of a form letter as an alternative to an affidavit where it is acceptable to the host country, and in any case where there is evidence that affidavits may be used for unlawful purposes, such as marriage fraud.

7 FAM 1455 AUTHENTICATION OF FOREIGN MARRIAGE AND DIVORCE CERTIFICATES

(TL:CON-56; 6-30-93)

a. Authentication is a governmental act (rather than a notarial act) by which a consular officer certifies to the genuineness of a foreign document (by verifying the signature, seal, and position of a foreign official [see § 7 FAM 840].

b. Under 22 CFR 52.2 consular officers are specifically authorized to authenticate foreign marriage and divorce decrees. In the body of the certificate of authentication, the consular officer includes the following statement from 22 CFR 52.2, 4/92 edition:

“For the contents of the annexed document, the Consulate (General) assumes no responsibility.”

c. The fee charged for the authentication is that prescribed by the current Schedule of Fees, item 45(d), assessed separately for the authentication of each document presented.

7 FAM 1456 MARRIAGE BY PROXY OR BY CONTRACT WITHOUT CEREMONY

7 FAM 1456.1 Proxy Marriage

(TL:CON-56; 6-30-93)

Consular officers are not authorized to give legal advice about the validity of proxy marriages without the benefit of a civil or ecclesiastical ceremony. Inquirers should be directed to obtain information about the validity of proxy marriages from officials of the U.S. State(s) or other country where the marriage has been or is to be performed.

7 FAM 1456.2 Contract Marriage

(TL:CON-56; 6-30-93)

Consular officers are not authorized to advise inquirers about the validity of marriages contracted by parties without the benefit of either civil or ecclesiastical ceremony. Such information should come from officials of the State(s) or other country where the contracting parties are or have been residing.

7 FAM 1457 MARRIAGE OF U.S. CITIZENS ON HIGH SEAS

(TL:CON-56; 6-30-93)

Consular officers should not give legal advice, or even a general statement, about the validity of marriages performed on board a vessel on the high seas because their validity and recognition depend upon the various requirements of State laws, as construed and interpreted by the courts.

7 FAM 1458 SERVICES NOT PERFORMED

(TL:CON-56; 6-30-93)

Consular officers are not authorized to:

(1) Issue any official certificate with respect to marriage laws, even if knowledgeable about the host country laws of marriage (22 CFR 52.3).

(2) Make any official certification about the status or eligibility to marry of persons residing in the United States who propose to be married abroad, or about the laws of the United States or of any of the fifty States or Territories about eligibility for marriage or the solemnization of a marriage.

(3) Give an official or authoritative opinion on matters of local (host country) law and practices to parties proposing to be married abroad.

(4) Translate foreign documents pertaining to marriage abroad (22 CFR 92.78) or certify to the correctness of a translation (22 CFR 92.78).

(5) Review for correctness documents the parties to the marriage intend to present to foreign authorities.

(6) Assist U.S. citizens in completing foreign forms.

7 FAM 1459 UNASSIGNED