Marriage Act 1939

1939 CHAPTER 33

An Act to facilitate marriages in cases where one party resides in Scotland and the other in England and to make further provision as respects notices of marriage between parties one of whom resides in Scotland or England. [13th July 1939]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1 Notices and certificates where one party resides in Scotland and the other in England.

(1) Where it is intended that a marriage shall be solemnized in England, or that a regular marriage shall be contracted or celebrated in Scotland, between parties of whom one is residing in Scotland and the other is residing in England, the following provisions shall have effect—

(a) the party residing in Scotland may, subject to and in accordance with the provisions of section seven of the Marriage Notice (Scotland) Act, 1878, give notice of the intended marriage as if the parties were residing in different parishes or districts in Scotland and (where the marriage is to be solemnized in England) as if it were intended to be contracted or celebrated in Scotland, and the provisions of that Act relating to notices of intended marriages and the granting of certificates of due publication thereof shall apply accordingly;

(b) the party residing in England may, subject to and in accordance with the provisions of section four of the Marriage Act, 1836, as amended by any subsequent enactment, give notice of the intended marriage as if the parties were residing in different districts in England and (where the marriage is to be contracted or celebrated in Scotland) as if it were intended to be solemnized in England, and the provisions of the Marriage Acts, 1811 to 1934, relating to notices of marriage and the issue of certificates for marriage shall apply accordingly;

(c) where the marriage is to be solemnized in England—

(i) a certificate of due publication of a notice of the intended marriage granted in Scotland by virtue of paragraph (a) of this section shall, for the purpose of the marriage, have the like force and effect in all respects as a certificate for marriage issued by a superintendent registrar in England under the Marriage Acts, 1811 to 1934; and

(ii) for the purpose of any enactment limiting the time within which the marriage may be solemnized by reference to the day of entry of the notice, the notice shall be deemed to have been entered by a superintendent registrar in England on the day on which it was given;

(d) where the marriage is to be contracted or celebrated in Scotland, a certificate for marriage issued in England by virtue of paragraph (b) of this section shall, for the purpose of the marriage, be of the like force and effect in all respects as a certificate granted by a registrar in Scotland under section nine of the Marriage Notice (Scotland) Act, 1878.

(2) This section shall come into operation on the first day of October nineteen hundred and thirty-nine.

2 Power to accept notices and issue certificates where one party is residing in England or Scotland.

(1) Where—

(a) a marriage is intended to be solemnized in England between parties of whom one is residing in England, and

(b) by virtue of any enactment to which this subsection applies, a certificate issued to the other party otherwise than by a superintendent registrar in England may be treated for the purpose of the marriage as if it had been issued by such a registrar,

the superintendent registrar of the district in which the first-mentioned party is residing shall have power, and shall be deemed always to have had power, to accept notice of the marriage given by that party, subject to and in accordance with the provisions of section four of the Marriage Act, 1836, as amended by any subsequent enactment, as if both parties were residing in different districts in England, and the provisions of the Marriage Acts, 1811 to 1934, relating to notices of marriage and the issue of certificates for marriage shall apply, and shall be deemed always to have applied, accordingly.

(2) Where—

(a) it is intended that a marriage shall be contracted or celebrated in Scotland between parties of whom one is residing in Scotland, and

(b) by virtue of any enactment to which this subsection applies, a certificate issued to the other party otherwise than by a registrar in Scotland may be treated for the purpose of the marriage as if it had been issued by such a registrar,

the registrar of the district or parish in Scotland in which the first-mentioned party is residing shall have power, and shall be deemed always to have had power, to accept notice of the marriage given by that party, subject to and in accordance with the provisions of section seven of the Marriage Notice (Scotland) Act, 1878, as if both parties were residing in different parishes or districts in Scotland, and the provisions of that Act relating to notices of intended marriages and the granting of certificates of due publication thereof shall apply, and shall be deemed always to have applied, accordingly.

(3) The enactments to which subsection (1) of this section applies are section eight of the Marriage and Registration Act, 1856, section three of the Naval Marriages Act, 1908, and paragraph (a) of subsection (1) of section one of the Marriage of British Subjects (Facilities) Act, 1915, and the enactments to which subsection (2) of this section applies are the said section three and the said paragraph (a) as those enactments apply to Scotland.

3 Amendment as to certificate of proclamation of banns.

Section eight of the Marriage and Registration Act, 1856 (which provides for the recognition, for the purpose of a marriage in England, of a certificate under the hand of the session clerk of proclamation of banns in Scotland) shall be amended by the insertion after the words " hand of " of the words " the minister or ".

4 Short title and citation.

(1) This Act may be cited as the Marriage Act, 1939.

(2) This Act, so far as it relates to England, may be cited together with the Marriage Acts, 1811 to 1934, as the Marriage Acts, 1811 to 1939.