



# Foreign Marriage (Amendment) Act 1988

## 1988 CHAPTER 44

An Act to amend the Foreign Marriage Act 1892 and to repeal certain enactments which are spent relating to the validation of marriages of British subjects solemnised outside the United Kingdom. [2nd November 1988]

Be it enacted by the Queen'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 Persons whose marriages may be solemnised or registered under the 1892 Act.**

(1) In the <sup>M1</sup>Foreign Marriage Act 1892 (in this Act referred to as “the 1892 Act”) in section 1 (which validates certain marriages abroad where at least one of the parties is a British subject) for the words from the beginning to “British subject” there shall be substituted the words—

“(1) All marriages between parties of whom at least one is a United Kingdom national”.

(2) At the end of that section there shall be added the following—

“(2) In this Act “United Kingdom national” means a person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas); or
- (b) a British subject under the British Nationality Act 1981; or
- (c) a British protected person, within the meaning of that Act.”

(3) The words “United Kingdom national” shall be substituted for the words “British subject”—

- (a) in section 18(1) of the 1892 Act (registration of marriages solemnised under local law); and
- (b) in section 21(1)(a) of that Act (regulations restricting the exercise by marriage officers of their powers under that Act).

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- (4) In section 24 of that Act (definitions), after the definition of “prescribed” there shall be inserted the following definition—

“The expression “United Kingdom national” has the meaning given by section 1(2) above.”

**Annotations:**

**Marginal Citations**

**M1** 1892 c. 23.

**2 Consent requirements for parties domiciled in Northern Ireland or Scotland varied or abolished according to the law of their domicile.**

- (1) For section 4 of the 1892 Act (same consent required as for marriage in England and Wales, dispensation with consent and power to forbid marriage) there shall be substituted the following—

**“4 Consent to marriage and power to forbid marriage.**

- (1) The same consent shall be required to the marriage under this Act of a party domiciled in England and Wales or in a country outside the United Kingdom as would be required in respect of that party to a marriage solemnised in England and Wales on the authority of a certificate issued by a superintendent registrar under Part III of the Marriage Act 1949.
- (2) The same consent shall be required to the marriage under this Act of a party domiciled in Northern Ireland as would be required in respect of that party to a marriage solemnised there.
- (3) No consent shall be required to a marriage under this Act in respect of a party domiciled in Scotland.
- (4) The Secretary of State or, in such cases as may be prescribed, the Registrar General for England and Wales may dispense with the necessity of obtaining any consent required by virtue of subsection (1) above if he is satisfied that it cannot be obtained because of the absence, inaccessibility or disability of the person whose consent is so required.
- (5) The necessity of obtaining any consent required by virtue of subsection (2) above may be dispensed with by an order under section 2 of the Marriages Act (Northern Ireland) 1954; and for the purposes of this subsection an application for such an order may be made to any county court in Northern Ireland.
- (6) Any person whose consent is required to a marriage under this Act may at any time before its solemnisation forbid it by—
  - (a) writing the word “forbidden” against the entry of the intended marriage in the book of notices; and
  - (b) adding after that word his name and address and a statement of the capacity by virtue of which his consent is required;
 and if a marriage is so forbidden the notice shall be void and the intended marriage shall not be solemnised under that notice.”

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(2) For paragraph (c) of section 7 of that Act (oath as to satisfaction of consent requirements) there shall be substituted the following—

- “(c) where either party is under the age of eighteen years and domiciled in a country other than Scotland—
- (i) that any consent to the marriage which is required in respect of that party has been obtained,
  - (ii) that the necessity of obtaining any such consent in respect of that party has been dispensed with, or
  - (iii) if that party is domiciled in England and Wales or in a country outside the United Kingdom, either that he or she is a widow or widower or that there is no person having authority to give any such consent.”

### **3 Caveat against marriage.**

(1) In section 5 of the 1892 Act (caveats) in subsection (2) (Secretary of State to refer doubtful cases to the Registrar-General for England and Wales for decision by him) for the words “to the Registrar-General, and the Registrar-General” there shall be substituted the words “to whichever of the following he considers appropriate, that is to say—

- (a) the Registrar General for England and Wales;
- (b) the Registrar General of Births, Deaths and Marriages for Scotland; or
- (c) the Registrar General in Northern Ireland;

and that Registrar General ”.

(2) In subsection (4) of that section for the words “by the Registrar-General or Secretary of State” there shall be substituted the words “under subsection (2) or (3) above”.

### **4 Form of ceremony.**

In section 8 of the 1892 Act for subsections (2) and (3) (solemnisation of marriage in presence of marriage officer etc.) there shall be substituted the following—

“(2) Every such marriage shall be solemnised—

- (a) at the official house of the marriage officer, with open doors, between 8 am and 6 pm, in the presence of two or more witnesses;
- (b) by the marriage officer or, if the parties so desire, by another person in his presence; and
- (c) according to such form and ceremony as the parties see fit to adopt.

(3) Where (apart from this subsection) it would not be stated or otherwise indicated in the course of the ceremony adopted by the parties that neither of them knows of any lawful impediment to their marriage, then, in some part of the ceremony and in the presence of the marriage officer and witnesses, they shall each declare

—  
“I solemnly declare that I know not of any lawful impediment why *IA.B.* [*or C.D.*] may not be joined in matrimony to *C.D.* [*or A.B.*].”

(4) Where (apart from this subsection) it would not be stated by each of the parties in the course of the ceremony adopted by them that he or she takes the other as

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wife or husband, then, in some part of the ceremony and in the presence of the marriage officer and witnesses, each of the parties shall say to the other—  
“I call upon these persons here present to witness that *I.A.B.* [*or C.D.*]take thee *C.D.* [*or A.B.*]to be my lawful wedded wife [*or husband*]”.”

## 5 Amendments relating to the registration of marriages.

- (1) In sections 9(2) and 10 of the 1892 Act (which relate to the registration of marriages under that Act) for the words “Registrar-General” wherever occurring there shall be substituted the words “Registrar General for England and Wales”.
- (2) The following paragraph shall be added at the end of section 17 of that Act (application of the Marriage Registration Acts)—

“In this section “the Marriage Registration Acts” means the enactments for the time being in force in England and Wales relating to the registration of marriages.”

## 6 Marriages of children of members of H.M. forces etc. serving abroad.

In section 22 of the 1892 Act (validity of marriages solemnised by chaplains of H.M. forces serving abroad) the proviso to subsection (1) shall be omitted and after that subsection there shall be inserted the following—

“(1A) Subsection (1) above shall not apply to a marriage unless—

- (a) at least one of the parties to the marriage is a person who—
  - (i) is a member of the said forces serving in the foreign territory concerned or is employed in that territory in such other capacity as may be prescribed by Order in Council; or
  - (ii) is a child of a person falling within sub-paragraph (i) above and has his home with that person in that territory; and
- (b) such other conditions as may be so prescribed are complied with.

(1B) In determining for the purposes of subsection (1A) above whether one person is the child of another—

- (a) it shall be immaterial whether the person’s father and mother were at any time married to each other; and
- (b) a person who is or was treated by another as a child of the family in relation to any marriage to which that other is or was a party shall be regarded as his child.”

## 7 Short title, repeals, commencement and extent.

- (1) This Act may be cited as the Foreign Marriage (Amendment) Act 1988.
- (2) The enactments mentioned in the Schedule to this Act (which include some which are spent or no longer of practical utility) are hereby repealed to the extent specified in column 3 of that Schedule.
- (3) This Act shall come into force on such day as the Lord Chancellor and the Lord Advocate may by order made by statutory instrument appoint.
- (4) This Act extends to Northern Ireland.

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**Annotations:**

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**Modifications etc. (not altering text)**

**C1** Power of appointment conferred by s. 7(3) fully exercised: 12.4.1990 appointed by [S.I. 1990/522](#)

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SCHEDULE

Section 7(2).

ENACTMENTS REPEALED

3 & 4 Will.4. c.45.	An Act to declare valid marriages solemnised at Hamburgh since the abolition of the British Factory there.	The whole Act.
17 & 18 Vict. c.88.	An Act to render valid certain marriages of British subjects in Mexico.	The whole Act.
21 & 22 Vict. c.46.	An Act to remove doubts as to the validity of certain marriages of British subjects abroad.	The whole Act.
22 & 23 Vict. c.64.	An Act to remove doubts as to the validity of certain marriages of British subjects at Lisbon.	The whole Act.
27 & 28 Vict. c.77.	An Act to repeal and in part re-enact certain Acts of Parliament relating to the Ionian States, and to establish the validity of certain things done in the said States.	The whole Act.
30 & 31 Vict. c.2.	The Odessa Marriage Act 1867.	The whole Act.
30 & 31 Vict. c.93.	The Morro Velho Marriage Act 1867.	The whole Act.
41 & 42 Vict. c.61.	The Fiji Marriage Act 1878.	The whole Act.
42 & 43 Vict. c.29.	The Confirmation of Marriages on Her Majesty's Ships Act 1879.	The whole Act.
52 & 53 Vict. c.38.	The Basutoland and British Bechuanaland Marriage Act 1889.	The whole Act.
55 & 56 Vict. c.23.	The Foreign Marriage Act 1892.	Sections 14 and 15.  In section 21(3), the words from "including" to "or oath".  In section 22(4), the words from "and for the application" onwards.  In section 24, the definitions of the expressions "Registrar-

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		General”, “Attorney General” and “the Marriage Registration Acts”.
		Section 26(2).
2 & 3 Geo.5 c.15.	The Marriages in Japan (Validity) Act 1912.	The whole Act.
24 & 25 Geo.5 c.13.	The Marriage (Extension of Hours) Act 1934.	The whole Act.
10 & 11 Geo.6 c.33.	The Foreign Marriage Act 1947.	Sections 1 and 5.
1969 c.46.	The Family Law Reform Act 1969.	Section 2(1)(a).
		In section 28(4)(b), the words “the Foreign Marriage Act 1892 or”.
1977 c.15.	The Marriage (Scotland) Act 1977.	In Schedule 2, paragraph 1.

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