



# Marriage Act 1949

## 1949 CHAPTER 76

### PART II

#### MARRIAGE ACCORDING TO RITES OF THE CHURCH OF ENGLAND

##### *Preliminary*

#### **5 Methods of authorising marriages**

A marriage according to the rites of the Church of England may be solemnized—

- (a) after the publication of banns of matrimony;
- (b) on the authority of a special licence of marriage granted by the Archbishop of Canterbury or any other person by virtue of the Ecclesiastical Licences Act, 1533 (in this Act referred to as a "special licence");
- (c) on the authority of a licence of marriage (other than a special licence) granted by an ecclesiastical authority having power to grant such a licence (in this Act referred to as a "common licence"); or
- (d) on the authority of a certificate issued by a superintendent registrar under Part III of this Act.

##### *Marriage by banns*

#### **6 Place of publication of banns**

- (1) Subject to the provisions of this Act, where a marriage is intended to be solemnized after the publication of banns of matrimony, the banns shall be published—
  - (a) if the persons to be married reside in the same parish, in the parish church of that parish;
  - (b) if the persons to be married do not reside in the same parish, in the parish church of each parish in which one of them resides:

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Provided that if either of the persons to be married resides in a chapelry or in a district specified in a licence granted under section twenty of this Act, the banns may be published in an authorised chapel of that chapelry or district instead of in the parish church of the parish in which that person resides.

- (2) In relation to a person who resides in an extra-parochial place, the last foregoing subsection shall have effect as if for references to a parish there were substituted references to that extra-parochial place, and as if for references to a parish church there were substituted references to an authorised chapel of that place.
- (3) For the purposes of this section, any parish in which there is no parish church or chapel belonging thereto or no church or chapel in which divine service is usually solemnized every Sunday, and any extra-parochial place which has no authorised chapel, shall be deemed to belong to any adjoining parish or chapelry.
- (4) Banns of matrimony may be published in any parish church or authorised chapel which is the usual place of worship of the persons to be married or of one of them although neither of those persons resides in the parish or chapelry to which the church or chapel belongs:

Provided that the publication of banns by virtue of this subsection shall be in addition to and not in substitution for the publication of banns required by subsection (1) of this section.

## **7 Time and manner of publication of banns**

- (1) Subject to the provisions of section nine of this Act, banns of matrimony shall be published on three Sundays preceding the solemnization of the marriage during morning service or, if there is no morning service on a Sunday on which the banns are to be published, during evening service.
- (2) Banns of matrimony shall be published in an audible manner and in accordance with the form of words prescribed by the rubric prefixed to the office of matrimony in the Book of Common Prayer, and all the other rules prescribed by the said rubric concerning the publication of banns and the solemnization of matrimony shall, so far as they are consistent with the provisions of this Part of this Act, be duly observed.
- (3) The parochial church council of a parish shall provide for every church and chapel in the parish in which marriages may be solemnized, a register book of banns made of durable materials and marked in the manner directed by section fifty-four of this Act for the register book of marriages, and all banns shall be published from the said register book of banns by the officiating clergyman, and not from loose papers, and after each publication the entry in the register book shall be signed by the officiating clergyman, or by some person under his direction.
- (4) Any reference in the last foregoing subsection to a parochial church council shall, in relation to an authorised chapel in an extra-parochial place, be construed as a reference to the chapel warden or other officer exercising analogous duties in the chapel or, if there is no such officer, such person as may be appointed in that behalf by the bishop of the diocese.

## **8 Notice to clergyman before publication of banns**

No clergyman shall be obliged to publish banns of matrimony unless the persons to be married, at least seven days before the date on which they wish the banns to be published for the first time, deliver or cause to be delivered to him a notice in writing, dated on the day on which it is so delivered, stating the christian name and surname and the place of residence of each of them, and the period during which each of them has resided at his or her place of residence.

## **9 Persons by whom banns may be published**

- (1) Subject to the provisions of this section and of section fourteen of this Act, it shall not be lawful for any person other than a clergyman to publish banns of matrimony.
- (2) Where on any Sunday in any church or other building in which banns of matrimony may be published a clergyman does not officiate at the service at which it is usual in that church or building to publish banns, the banns may be published—
  - (a) by a clergyman at some other service at which banns of matrimony may be published ; or
  - (b) by a layman during the course of a public reading authorised by the bishop of the diocese of a portion or portions of the service of morning or evening prayer, the public reading being at the hour when the service at which it is usual to publish banns is commonly held or at such other hour as the bishop may authorise:

Provided that banns shall not be published by a layman unless the incumbent or minister in charge of the said church or building, or some other clergyman nominated in that behalf by the bishop, has made or authorised to be made the requisite entry in the register book of banns of the said church or building.

- (3) Where a layman publishes banns of matrimony by virtue of this section the layman shall sign the register book of banns provided under section seven of this Act and for that purpose shall be deemed to be the officiating clergyman within the meaning of that section.

## **10 Publication of banns commenced in one church and completed in another**

- (1) Where the publication of banns of matrimony has been duly commenced in any church, the publication may be completed in the same church or in any other church which, by virtue of the Union of Benefices Measure, 1923, or the New Parishes Measure, 1943, has at the time of the completion taken the place of the first-mentioned church for the purpose of publication of banns of matrimony either generally or in relation to the parties to the intended marriage.
- (2) Where the publication of banns of matrimony has been duly commenced in any building which by virtue of a reorganisation scheme under the Reorganisation Areas Measure, 1944, ceases to be a parish church or, as the case may be, ceases to be licensed for marriages, the publication may be completed in such other building, being either a parish church or a building licensed for marriages, as may be directed by the bishop of the diocese to take the place of the first-mentioned building for the purposes of the publication of banns.

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## **11 Certificates of publication of banns**

- (1) Where a marriage is intended to be solemnized after the publication of banns of matrimony and the persons to be married do not reside in the same parish or other ecclesiastical district, a clergyman shall not solemnize the marriage in the parish or district in which one of those persons resides unless there is produced to him a certificate that the banns have been published in accordance with the provisions of this Part of this Act in the parish or other ecclesiastical district in which the other person resides.
- (2) Where a marriage is intended to be solemnized in a church or chapel of a parish or other ecclesiastical district in which neither of the persons to be married resides, after the publication of banns therein by virtue of subsection (4) of section six of this Act, a clergyman shall not solemnize the marriage unless there is produced to him—
  - (a) if the persons to be married reside in the same parish or other ecclesiastical district, a certificate that the banns have been published in accordance with the provisions of this Part of this Act in that parish or district; or
  - (b) if the persons to be married do not reside in the same parish or other ecclesiastical district, certificates that the banns have been published as aforesaid in each parish or district in which one of them resides.
- (3) Where banns are published by virtue of subsection (3) of section six of this Act in a parish or chapelry adjoining the parish or extra-parochial place in which the banns would otherwise be required to be published, a certificate that the banns have been published in that parish or chapelry shall have the like force and effect as a certificate that banns have been published in a parish in which one of the persons to be married resides.
- (4) Any certificate required under this section shall be signed by the incumbent or minister' in charge of the building in which the banns were published or by a clergyman nominated in that behalf by the bishop of the diocese.

## **12 Solemnization of marriage after publication of banns**

- (1) Subject to the provisions of this Part of this Act, where banns of matrimony have been published, the marriage shall be solemnized in the church or chapel or, as the case may be, one of the churches or chapels in which the banns have been published.
- (2) Where a marriage is not solemnized within three months after the completion of the publication of the banns, that publication shall be void and no clergyman shall solemnize the marriage on the authority thereof.

## **13 Publication of banns in Scotland, Northern Ireland or Republic of Ireland**

Where a marriage is intended to be solemnized in England, after the publication of banns of matrimony, between parties of whom one is residing in England and the other is residing in Scotland, Northern Ireland or the Republic of Ireland, then, if banns have been published or proclaimed in any church of the parish or place in which that other party is residing according to the law or custom there prevailing, a certificate given in accordance with that law or custom that the banns have been so published or proclaimed shall as respects that party be sufficient for the purposes of section eleven of this Act, and the marriage shall not be void by reason only that the banns have not been published in the manner required for the publication of banns in England.

#### **14 Publication of banns on board His Majesty's ships**

- (1) Where a marriage is intended to be solemnized in England, after the publication of banns of matrimony, between parties of whom one is residing in England and the other is an officer, seaman or marine borne on the books of one of His Majesty's ships at sea, the banns may be published on three successive Sundays during morning service on board that ship by the chaplain, or, if there is no chaplain, by the captain or other officer commanding the ship, and, where banns have been so published, the person who published them shall, unless the banns have been forbidden on any of the grounds on which banns may be forbidden, give a certificate of publication.
- (2) A certificate issued under this section shall be in such form as may be prescribed by the Admiralty and shall, as respects the party who is an officer, seaman or marine as aforesaid, be sufficient for the purposes of section eleven of this Act, and all provisions of this Act (including penal provisions) relating to the publication of banns and certificates thereof and all rules required by section seven of this Act to be observed shall apply in the case of banns published under this section subject to such adaptations therein as may be made by His Majesty by Order in Council.

#### *Marriage by Common Licence*

#### **15 Places in which marriages may be solemnized by common licence**

- (1) Subject to the provisions of this Part of this Act, a common licence shall not be granted for the solemnization of a marriage in any church or chapel other than—
  - (a) the parish church of the parish, or an authorised chapel of the ecclesiastical district, in which one of the persons to be married has had his or her usual place of residence for fifteen days immediately before the grant of the licence; or
  - (b) a parish church or authorised chapel which is the usual place of worship of the -persons to be married or of one of them.
- (2) For the purposes of this section, any parish in which there is no parish church or chapel belonging thereto or no church or chapel in which divine service is usually solemnized every Sunday, and any extra-parochial place which has no authorised chapel, shall be deemed to belong to any adjoining parish or chapelry.

#### **16 Provisions as to common licences**

- (1) A common licence shall not be granted unless one of the persons to be married has sworn before a person having authority to grant such a licence—
  - (a) that he or she believes that there is no impediment of kindred or alliance or any other lawful cause, nor any suit commenced in any court, to bar or hinder the solemnization of the marriage in accordance with the licence;
  - (b) that one of the persons to be married has had his or her usual place of residence in the parish or other ecclesiastical district in which the marriage is to be solemnized for fifteen days immediately before the grant of the licence or that the parish church or authorised chapel in which the marriage is to be solemnized is the usual place of worship of those persons or of one of them;
  - (c) where one of the persons to be married is an infant and is not a widower or widow, that the consent of the person or persons whose consent to the marriage is required under section three of this Act has been obtained, that the necessity of obtaining any such consent has been dispensed with under that section, that

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the court has consented to the marriage under that section, or that there is no person whose consent to the marriage is so required.

- (2) If any caveat is entered against the grant of a common licence, the caveat having been duly signed by or on behalf of the person by whom it is entered and stating his place of residence and the ground of objection on which the caveat is founded, no licence shall be granted until the caveat or a copy thereof is transmitted to the ecclesiastical judge out of whose office the licence is to issue, and the judge has certified to the registrar of the diocese that he has examined into the matter of the caveat and is satisfied that it ought not to obstruct the grant of the licence, or until the caveat is withdrawn by the person who entered it.
- (3) Where a marriage is not solemnized within three months after the grant of a common licence, the licence shall be void and no clergyman shall solemnize the marriage on the authority thereof.
- (4) No surrogate deputed by an ecclesiastical judge who has power to grant common licences shall grant any such licence until he has taken an oath before that judge, or a commissioner appointed under the seal of that judge, faithfully to execute his office according to law, to the best of his knowledge, and has given security by his bond in the sum of one hundred pounds to the bishop of the diocese for the due and faithful execution of his office.

*Marriage under superintendent registrar's certificate*

**17 Marriage under superintendent registrar's certificate**

A marriage according to the rites of the Church of England may be solemnized on the authority of a certificate of a superintendent registrar in force under Part III of this Act in any church or chapel in which banns of matrimony may be published:

Provided that a marriage shall not be solemnized as aforesaid in any such church or chapel without the consent of the minister thereof or by any person other than a clergyman.

*Publication of banns and solemnization of marriages during disuse of churches*

**18 Publication of banns and solemnization of marriages during the repair and rebuilding of churches**

- (1) Where any church or chapel in which banns may be published and marriages solemnized is being rebuilt or repaired, and on that account is not being used for divine service, banns of matrimony which could otherwise have been published therein and marriages which could otherwise have been solemnized therein may be published or solemnized, as the case may be,—
  - (a) in any building licensed by the bishop of the diocese for the performance of divine service during the disuse of the church or chapel, being a building within the parish or other ecclesiastical district in which the disused church or chapel is situated; or
  - (b) if no building has been licensed as aforesaid, in any such consecrated chapel as the bishop of the diocese may in writing direct, being a chapel within the said parish or district; or

- (c) if no building has been licensed as mentioned in paragraph (a) of this subsection and no direction has been given by the bishop under the last foregoing paragraph, in a church or chapel of any adjoining parish or other ecclesiastical district, being a church or chapel in which banns may be published and marriages solemnized.
- (2) Any fees paid in respect of marriages solemnized by virtue of paragraph (b) of the last foregoing subsection in a consecrated chapel specified in a direction given by the bishop of the diocese under that paragraph shall be applied as the bishop, with the consent of the incumbent of the disused church or chapel, may in writing direct.
- (3) Any marriage solemnized by virtue of the said subsection in any licensed building or consecrated chapel or in the church or chapel of an adjoining parish or district shall be deemed for the purposes of Part IV of this Act to have been solemnized in the disused church or chapel and shall accordingly be registered in the marriage register books kept by the incumbent of the disused church or chapel.

## **19 Publication of banns and solemnization of marriage where church injured by war damage**

Where an order made by the Church Commissioners under section three of the Diocesan Reorganisation Committees Measure, 1941, (which enables orders to be made deferring the restoration of churches injured by war damage) is in force as respects any church, banns of matrimony of persons entitled to be married in that church may be published, and marriages of such persons may be solemnized, in such other church, chapel or place of worship within that diocese as the bishop of the diocese shall in writing direct.

*Licensing of chapels for publication of banns and solemnization of marriages*

## **20 Licensing of chapels for publication of banns and solemnization of marriages for persons residing in specified district**

- (1) Subject to the provisions of this section, the bishop of the diocese in which a public chapel is situated may—
  - (a) if he thinks it necessary so to do for the due accommodation and convenience of the inhabitants of any district; and
  - (b) if the patron and incumbent of the church of the parish in which the public chapel is situated have signified their consent under their respective hands and seals,authorise by a licence under his hand and seal the publication of banns and the solemnization of marriages in that public chapel between parties both or either of whom reside or resides within a district of which the limits shall be specified in the licence; and any such licence may include such provisions concerning the amount, appropriation or apportionment of dues and such other particulars as the bishop thinks fit.
- (2) Notwithstanding anything in the last foregoing subsection, the bishop of the diocese may grant a licence under this section without the consent of the patron and incumbent of the church of the parish in which the public chapel is situated after two months notice in writing given to the patron and incumbent by the registrar of the diocese:

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Provided that where any patron or incumbent who refuses or withholds his consent to the grant of a licence under this section delivers to the bishop under his hand and seal a statement of the reasons for which the consent has been refused or withheld, no licence shall be granted by the bishop until he has inquired into the reasons contained in the statement.

- (3) Where a bishop grants a licence under this section without the consent of the patron and incumbent, the patron or incumbent may, within one month from the grant of the licence, appeal to the archbishop of the province who shall hear the appeal in a summary manner, and shall make such order confirming, revoking or varying the licence as seems to him expedient.
- (4) Any licence granted or order made under this section may at any time be revoked in writing under the hand and seal of the bishop of the diocese with the consent in writing of the archbishop of the province; and the registrar of the diocese shall notify the revocation in writing to the minister officiating in the chapel concerned and shall give public notice of the revocation by advertisement in some newspaper circulating within the county in which the chapel is situated and in the London Gazette.
- (5) There shall be displayed in some conspicuous part of the interior of any chapel licensed under this section the words "Banns may be published and marriages may be solemnized in this chapel".
- (6) Every consent of a patron or incumbent delivered under subsection (1) of this section, a copy of every notice given by the registrar of a diocese under subsection (2) of this section, every statement of reasons' delivered by a patron or incumbent under the said subsection (2), together with the bishop's decision thereon under his hand and seal, every order made by an archbishop under subsection (3) of this section and every revocation and consent made or given under subsection (4) of this section, shall be registered in the registry of the diocese.
- (7) The district specified in a licence granted under this section may be taken out of more than one parish; and where any such licence specifies a district taken out of more than one parish the expressions " patron " and " incumbent " shall for the purposes of this section mean the patron or incumbent, as the case may be, of the church of every parish out of which the district so specified is taken.
- (8) In this section the expression " public chapel " means any public chapel with or without a chapelry annexed thereto, or any chapel duly licensed for the celebration of divine service according to the rites and ceremonies of the Church of England, or any chapel the minister of which is duly licensed to officiate therein according to the rites and ceremonies of the Church of England.

## **21 Authorising of publication of banns and solemnization of marriages in churches and chapels of extra parochial places**

- (1) Where any extra-parochial place has belonging to it or within it any church or chapel of the Church of England, the bishop of the diocese in which the church or chapel is situated may, if he thinks fit, authorise in writing under his hand and seal the publication of banns and the solemnization of marriages by banns or licence in that church or chapel between parties both or either of whom reside or resides in that extra-parochial place.



- (2) Every authorisation given under the last foregoing subsection shall be registered in the registry of the diocese.

### *Miscellaneous Provisions*

#### **22 Witnesses**

All marriages solemnized according to the rites of the Church of England shall be solemnized in the presence of two or more witnesses in addition to the clergyman by whom the marriage is solemnized.

#### **23 Benefices held in plurality**

Where two or more benefices are held in plurality under the Pastoral Reorganisation Measure, 1949, the bishop of the diocese in which the benefices are situated or, during a vacancy in the see, the guardian of the spiritualities thereof, may in writing direct where banns of matrimony of persons entitled to be married in any church of those benefices may be published and where marriages of those persons may be solemnized:

Provided that—

- (a) nothing in this section shall deprive a person of the right to be married in any church in which he would have been entitled to be married if no directions had been given under this section; and
- (b) a person may be married in a church in which he would have been entitled to be married as aforesaid notwithstanding that the banns of matrimony have, by virtue of this section, been published only in some other church.

#### **24 Proof of residence not necessary to validity of marriage by banns or common licence**

- (1) Where any marriage has been solemnized after the publication of banns of matrimony, it shall not be necessary in support of the marriage to give any proof of the residence of the parties or either of them in any parish or other ecclesiastical district in which the banns were published, and no evidence shall be given to prove the contrary in any proceedings touching the validity of the marriage.
- (2) Where any marriage has been solemnized on the authority of a common licence, it shall not be necessary in support of the marriage to give any proof that the usual place of residence of one of the parties was for fifteen days immediately before the grant of the licence in the parish or other ecclesiastical district in which the marriage was solemnized, and no evidence shall be given to prove the contrary in any proceedings touching the validity of the marriage.

#### **25 Void marriages**

If any persons knowingly and wilfully intermarry according to the rites of the Church of England (otherwise than by special licence)—

- (a) in any place other than a church or other building in which banns may be published ;

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- (b) without banns having been duly published, a common licence having been obtained, or a certificate having been duly issued under Part III of this Act by a superintendent registrar to whom due notice of marriage has been given; or
- (c) on the authority of a publication of banns which is void by virtue of subsection (3) of section three or subsection (2) of section twelve of this Act, on the authority of a common licence which is void by virtue of subsection (3) of section sixteen of this Act, or on the authority of a certificate of a superintendent registrar which is void by virtue of subsection (2) of section thirty-three of this Act;
- (d) in the case of a marriage on the authority of a certificate of a superintendent registrar, in any place other than the church or other building specified in the notice of marriage and certificate;

or if they knowingly and wilfully consent to or acquiesce in the solemnization of the marriage by any person who is not in Holy Orders, the marriage shall be void.