



# Marriage (Scotland) Act 1977

## 1977 CHAPTER 15

### GENERAL

#### **22 Interpreters at marriage ceremony.**

- (1) Where the person by whom a marriage is to be solemnised under this Act considers that it is necessary or desirable, he may use the services of an interpreter (not being a party or a witness to the marriage) at the marriage ceremony.
- (2) The interpreter shall—
  - (a) before the marriage ceremony, sign a written statement that he understands, and is able to converse in, any language in respect of which he is to act as interpreter at that ceremony; and
  - (b) immediately after the marriage ceremony, furnish the person solemnising the marriage with a certificate written in English and signed by the interpreter that he has faithfully acted as interpreter at that ceremony.
- (3) Any fee for the services of the interpreter shall be paid by the parties to the marriage.

#### **23 Cancellation of entry in register of marriages.**

If a marriage in respect of which an entry has been made in a register of marriages is found or declared to be void, the Registrar General shall direct the cancellation of the entry.

#### **[<sup>F1</sup>23A Validity of registered marriage.**

- (1) Subject to sections 1 and 2 of and without prejudice to section 24(1) of this Act, where the particulars of any marriage at the ceremony in respect of which both parties were present are entered in a register of marriages by or at the behest of an appropriate registrar, the validity of that marriage shall not be questioned, in any legal proceedings whatsoever, on the ground of failure to comply with a requirement or restriction imposed by, under or by virtue of this Act.
- (2) In subsection (1) above, “appropriate registrar” means—

*Status: Point in time view as at 25/04/2002.*

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- (a)
- (b) in any other case, a district registrar.]

#### Textual Amendments

**F1** S. 23A inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. [22\(1\)\(d\)](#)

## 24 Offences.

(1) Any person who—

- (a) falsifies or forges any Marriage Schedule, certificate or declaration issued or made, or purporting to be issued or made, under this Act;
- (b) knowingly uses, or gives or sends to any person as genuine, any false or forged Marriage Schedule, certificate, declaration or other document issued or made, or purporting to be issued or made, or required, under this Act;
- (c) being an approved celebrant, solemnises a marriage without a Marriage Schedule in respect of the marriage, issued in accordance with this Act, being available to him at the time of the marriage ceremony;
- (d) not being an approved celebrant or an authorised registrar, conducts a marriage ceremony in such a way as to lead the parties to the marriage to believe that he is solemnising a valid marriage;<sup>F2</sup> . . .
- (e) being an approved celebrant or an authorised registrar, solemnises a marriage without both parties to the marriage being present<sup>F3</sup>; or]
- <sup>F3</sup>(f) being an authorised registrar, solemnises a marriage in a place otherwise than in accordance with section 18(1) of this Act]

shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both;
- (ii) on summary conviction, to a fine not exceeding [<sup>F4</sup>the prescribed sum] or to imprisonment for a term not exceeding 3 months or to both.

(2) Any person who—

- (a) solemnises a marriage in an area in which by virtue of section 9(4)(b) of this Act he is not permitted to solemnise a marriage;
- (b) solemnises a marriage in contravention of section 10(5) of this Act;
- (c) being a person temporarily authorised under section 12(a) of this Act, solemnises a marriage not specified in that authorisation;
- (d) solemnises a marriage in contravention of section 14 of this Act; or
- (e) being a party to a marriage, fails to comply with a notice served under section 16(2) of this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F5</sup>level 3 on the standard scale].

(3) Summary proceedings for an offence under this Act or, in relation to information supplied under or for the purposes of this Act, section 53(1)(a) of the <sup>M1</sup>Registration of Births, Deaths and Marriages (Scotland) Act 1965, may be commenced at any time within the period of 3 months from the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or within

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the period of 12 months from the commission of the offence, whichever period last expires; and subsection (3) of [F6section 136 of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences)] shall have effect for the purposes of this section as it has effect for the purposes of that section.

#### Textual Amendments

- F2** Word in s. 24(1)(d) repealed (25.4.2002) by 2002 asp 8, s. 1(4)(a); S.S.I. 2002/184, art. 2
- F3** S. 24(1)(f) and word inserted (25.4.2002) by 2002 asp 8, s. 1(4)(b); S.S.I. 2002/184, art. 2
- F4** Words in s. 24(1)(ii) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289B
- F5** Words in s. 24(2) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G
- F6** Words in s. 24(3) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 14

#### Marginal Citations

- M1** 1965 c. 49.

## 25 Regulations.

- (1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument and no such regulations shall be made by the Registrar General except with the approval of the Secretary of State.
- (2) Any statutory instrument containing regulations which prescribe fees for the purposes of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The <sup>M2</sup>Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations made for the purposes of this Act by the Registrar General as if the regulations had been made by a Minister of the Crown.

#### Subordinate Legislation Made

- P1** S. 25: s. 25 (with ss. 3(1), 19(2) and 26) power exercised (12.12.1991) by S.I.1991/2816.
- P2** S. 25: for previous exercises of this power see Index to Government Orders.

#### Marginal Citations

- M2** 1946 c. 36.

## 26 Interpretation.

- (1) Except where the context otherwise requires and subject to subsection (2) below, expressions used in this Act and in the <sup>M3</sup>Registration of Births, Deaths, and Marriages (Scotland) Act 1965 have the same meanings in this Act as in that Act.
- (2) In this Act, except where the context otherwise requires—
  - [F7“annulment” includes any decree or declarator of nullity of marriage, however expressed.]
  - “approved celebrant” has the meaning assigned to it by section 8(2)(a) of this Act;

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“authorised registrar” has the meaning assigned to it by section 8(2)(b) of this Act;

“district registrar” means the registrar for the registration district in which the marriage is to be or has been solemnised;

“name” includes surname;

“prescribed” means prescribed by regulations made by the Registrar General;

“religious body” means an organised group of people meeting regularly for common religious worship.

- (3) Except where the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

#### Subordinate Legislation Made

**P3** S. 26: s. 25 (with ss. 3(1), 19(2) and 26) power exercised (12.12.1991) by [S.I.1991/2816](#).

**P4** S. 26: for previous exercises of this power see Index to Government Orders.

#### Textual Amendments

**F7** Definition inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(6), [Sch. 1 para. 22](#)

#### Marginal Citations

**M3** [1965 c. 49](#).

## 27 Transitional and saving provisions.

- (1) Where, before the commencement of this Act—
- (a) proclamation of banns or publication of notice has been applied for by one or both of the parties to; or
  - (b) a licence has been granted by a sheriff in respect of,
- an intended marriage in accordance with an enactment repealed by this Act, then the marriage shall proceed in accordance with the enactments repealed by this Act as if they had not been so repealed:
- Provided that this subsection shall cease to have effect in respect of the marriage if—
- (i) a certificate of proclamation of banns or publication of notice issued in respect of the said application; or
  - (ii) the said licence, ceases to be valid in accordance with any enactment so repealed.
- (2) Any form used, and any requirement as to the particulars to be entered in any form used, for the purposes of any enactment repealed by this Act shall continue in force as though prescribed under this Act until other forms or particulars are so prescribed.
- (3) Nothing in this Act shall affect the validity of any marriage solemnised or contracted before 1st January 1978.
- (4) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section 38 of the <sup>M4</sup>Interpretation Act 1889 (which relates to the effect of repeals).

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**M4** 1889 c. 63.

## 28 Consequential amendments and repeals.

- (1) The enactments set out in Schedule 2 to this act shall have effect subject to the amendments respectively specified in that Schedule, being amendments consequential on the provisions of this Act.
- (2) The enactments set out in Schedule 3 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

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

**C1** The text of S. 28(1)(2), Sch. 2 paras. 2, 3, 4(a)(b), 5(a)(b), 6, 7, 8, 9, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 29 Short title, commencement and extent.

- (1) This Act may be cited as the Marriage (Scotland) Act 1977.
- (2) This Act, except this section, shall come into force on 1st January 1978.
- (3) This Act, except this section and, in so far as relating to the <sup>M5</sup>Marriage with Foreigners Act 1906, the <sup>M6</sup>Marriage Act 1939, the <sup>M7</sup>Marriage Act 1949 and the <sup>M8</sup>Marriage (Scotland) Act 1956, section 28, shall extend to Scotland only.

#### Marginal Citations

**M5** 1906 c. 40.

**M6** 1939 c. 33.

**M7** 1949 c. 76.

**M8** 1956 c. 70.

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