



# Marriage Act 1949

1949 CHAPTER 76 12 13 and 14 Geo 6

## PART I

### RESTRICTIONS ON MARRIAGE

#### **1 Marriages within prohibited degrees.**

(1) A marriage solemnized between a man and any of the persons mentioned in the first column of Part I of the First Schedule to this Act, or between a woman and any of the persons mentioned in the second column of the said Part I, shall be void.

<sup>F1</sup>(2) Subject to subsection (3) of this section, a marriage solemnized between a man and any of the persons mentioned in the first column of Part II of the First Schedule to this Act, or between a woman and any of the persons mentioned in the second column of the said Part II, shall be void.

(3) Any such marriage as is mentioned in subsection (2) of this section shall not be void by reason only of affinity if both the parties to the marriage have attained the age of twenty-one at the time of the marriage and the younger party has not at any time before attaining the age of eighteen been a child of the family in relation to the other party.

(4) Subject to subsection (5) of this section, a marriage solemnized between a man and any of the persons mentioned in the first column of Part III of the First Schedule to this Act or between a woman and any of the persons mentioned in the second column of the said Part III shall be void.

(5) Any such marriage as is mentioned in subsection (4) of this section shall not be void by reason only of affinity if both the parties to the marriage have attained the age of twenty-one at the time of the marriage and the marriage is solemnized—

- (a) In the case of a marriage between a man and the mother of a former wife of his, after the death of both the former wife and the father of the former wife;
- (b) in the case of a marriage between a man and the former wife of his son, after the death of both his son and the mother of his son;

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- (c) in the case of a marriage between a woman and the father of a former husband of hers, after the death of both the former husband and the mother of the former husband;
- (d) in the case of a marriage between a woman and a former husband of her daughter, after the death of both her daughter and the father of her daughter.]

#### Textual Amendments

**F1** S. 1(2)–(5) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 1(6), [Sch. 1 para. 2](#): original s. 1(2)(3) repealed by [Marriage \(Enabling\) Act 1960 \(c. 29\)](#), [Sch.](#)

## 2 Marriages of persons under sixteen.

A marriage solemnized between persons either of whom is under the age of sixteen shall be void.

## 3 Marriages of persons under twenty-one.

- (1) Where the marriage of [<sup>F2</sup>a child], not being a widower or widow, is intended to be solemnized on the authority of a certificate issued by a superintendent registrar under Part III of this Act, whether by licence or without licence, the consent of the person or persons specified in [<sup>F3</sup>the Second Schedule to this Act][<sup>F3</sup>subsection (1A) of this section] shall be required [<sup>F4</sup>[<sup>F5</sup>unless [<sup>F2</sup>the child] is subject to a custodianship order, when the consent of the custodian and, where the custodian is the husband or wife of a parent of [<sup>F2</sup>the child], of that parent shall be required]]:

Provided that—

- (a) if the superintendent registrar is satisfied that the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the necessity for the consent of that person shall be dispensed with, if there is any other person whose consent is also required; and if the consent of no other person is required, the Registrar General may dispense with the necessity of obtaining any consent, or the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent cannot be so obtained;
- (b) if any person whose consent is required refuses his consent, the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent is refused.

[<sup>F6</sup>(1A) The consents are—

- (a) subject to paragraphs (b) to (d) of this subsection, the consent of—
  - (i) each parent (if any) of the child who has parental responsibility for him; and
  - (ii) each guardian (if any) of the child;
- (b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);

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- (c) where a care order is in force with respect to the child, the consent of the local authority designated in the order (in addition to the consents mentioned in paragraph (a) of this subsection);
  - (d) where neither paragraph (b) nor (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).
- (1B) In this section “guardian of a child”, “parental responsibility”, “residence order” and “care order” have the same meaning as in the Children Act 1989.]
- (2) The last foregoing subsection shall apply to marriages intended to be solemnized on the authority of a common licence, with the substitution of references to the ecclesiastical authority by whom the licence was granted for references to the superintendent registrar, and with the substitution of a reference to the Master of the Faculties for the reference to the Registrar General.
  - (3) Where the marriage of [<sup>F2</sup>a child], not being a widower or widow, is intended to be solemnized after the publication of banns of matrimony then, if any person whose consent to the marriage would have been required under this section in the case of a marriage intended to be solemnized otherwise than after the publication of the banns, openly and publicly declares or causes to be declared, in the church or chapel in which the banns are published, at the time of the publication, his dissent from the intended marriage, the publication of banns shall be void.
  - (4) A clergyman shall not be liable to ecclesiastical censure for solemnizing the marriage of [<sup>F2</sup>a child] after the publication of banns without the consent of the parents or guardians of [<sup>F2</sup>the child] unless he had notice of the dissent of any person who is entitled to give notice of dissent under the last foregoing subsection.
  - (5) For the purposes of this section, “the court” means the High Court, [<sup>F7</sup>the county court of the district in which any applicant or respondent resides], or a court of summary jurisdiction [<sup>F8</sup>[<sup>F9</sup>appointed for the commission area (within the meaning of [<sup>F10</sup>the Justices of the Peace Act 1979)]] in which any applicant or respondent resides], and rules of court may be made for enabling applications under this section—
    - (a) if made to the High Court, to be heard in chambers;
    - (b) if made to the county court, to be heard and determined by the registrar subject to appeal to the judge;
    - (c) if made to a court of summary jurisdiction, to be heard and determined otherwise than in open court,and shall provide that, where an application is made in consequence of a refusal to give consent, notice of the application shall be served on the person who has refused consent.
  - (6) Nothing in this section shall dispense with the necessity of obtaining the consent of the High Court to the marriage of a ward of court.

#### Textual Amendments

**F2** Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1), 34(2)(5), [Sch. 2 para. 9](#)

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- F3** Words “subsection (1A) of this section” substituted (*prosp.*) for “the Second Schedule to this Act” by Children Act 1989 (c. 41, SIF 20), s. 108, Sch.12 para. 5(1) (with saving in Sch. 14 para. 37, and with **Sch. 14 para. 1(1)**)
- F4** Words inserted by Children Act 1975 (c. 72, SIF 49:10), s. 108(1)(A), **Sch. 3 para. 7.**
- F5** Words repealed (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch. 15 (with Sch. 14 paras. 1(1), **27(4)**)
- F6** S. 3(1A)(1B) inserted (*prosp.*) by Children Act 1989 (c. 41, SIF 20), s. **108.** Sch. 12 para. 5(2) (with Sch. 14 para. 1(1))
- F7** Words substituted by Family Law Reform Act 1969 (c. 46), s. **2(2)**
- F8** Words inserted by Family Law Reform Act 1969 (c. 46), s. **2(2)**
- F9** Words substituted by Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22, SIF 49:3), s. **89(2)(a)**, Sch. 2 para. 9
- F10** Words substituted by Justices of the Peace Act 1979 (c. 55, SIF 82), s. 71, **Sch. 2 para. 5**

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

- C1** S. 3 extended by Family Law Reform Act 1969 (c. 46), s. **2(3)**; applied with modification by Marriage (Registrar General’s Licence) Act 1970 (c. 34), s. **6**

**4 Hours for solemnization of marriages.**

A marriage may be solemnized at any time between the hours of eight in the forenoon and six in the afternoon.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Marriage Act 1949, Part I.