



# Marriage Act 1949

1949 CHAPTER 76 12 13 and 14 Geo 6

## PART VI

### GENERAL

#### 72 **Supplementary provisions as to marriages in usual places of worship.**

- (1) For the purposes of the following provisions of this Act, that is to say, subsection (4) of section six, paragraph (b) of subsection (1) of section fifteen and subsection (3) of section thirty-five, no parish church or authorised chapel shall be deemed to be the usual place of worship of any person unless he is enrolled on the church electoral roll of the area in which that church or chapel is situated, and where any person is enrolled on the church electoral roll of an area in which he does not reside that enrolment shall be sufficient evidence that his usual place of worship is a parish church or authorised chapel in that area.
- (2) Persons intending to be married shall have the like but no greater right of having their banns published and marriage solemnized by virtue of the said provisions in a parish church or authorised chapel which is the usual place of worship of one or both of them as they have of having their banns published and marriage solemnized in the parish church or public chapel of the parish or chapelry in which they or one of them resides.
- (3) Where any marriage has been solemnized by virtue of the said provisions it shall not be necessary in support of the marriage to give any proof of the actual enrolment of the parties or of one of them on the church electoral roll of the area in which the parish church or authorised chapel in which the marriage was solemnized was situated, nor shall any evidence be given to prove the contrary in any proceedings touching the validity of the marriage.
- (4) In this section the expression “church electoral roll” means a church electoral roll provision for which is made in the Rules for the Representation of the Laity contained in the Schedule to the Representation of the <sup>M1</sup>Laity Measure, 1929.

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

**C1** S. 72(4) amended by [Marriage \(Wales and Monmouthshire\) Act 1962 \(c. 32\), s. 1\(2\)](#)

**Marginal Citations**

**M1** 1929 No. 2.

**73 Lists of licensed chapels and registered buildings.**

- (1) The registrar of every diocese shall, within fifteen days after the first day of January in every year, make out and send by post to the Registrar General at his office a list of all chapels within that diocese in which marriages may be solemnized according to the rites of the Church of England (being chapels which belong to the Church of England or have been licensed under Part V of this Act), and shall distinguish in that list which chapels have a parish, chapelry or other recognised ecclesiastical division annexed to them, which are chapels licensed under section twenty of this Act and which are chapels licensed under the said Part V, and, in the case of chapels licensed under the said section twenty, shall state in the list the district for which each chapel is licensed according to the description thereof in the licence.
- (2) The Registrar General shall in every year make out and cause to be printed a list of all chapels included in any list sent to him under the last foregoing subsection and of all registered buildings and shall state in that list the county and registration district within which each chapel or registered building is situated and the names and places of residence of the superintendent registrars, registrars and deputy registrars of each district.
- (3) A copy of every list made by the Registrar General under the last foregoing subsection shall be sent to every registrar and superintendent registrar.

**74 Regulations.**

The Registrar General, with the approval of the Minister of Health, may by statutory instrument make regulations—

- (a) prescribing the duties of . . . <sup>F1</sup> authorised persons under this Act;
- (b) prescribing any thing which by this Act is required to be prescribed.

**Textual Amendments**

**F1** Words repealed by [Registration Service Act 1953 \(c. 37\), Sch. 2](#)

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

**C2** Functions of Minister of Health now exercisable by Secretary of State: [S.I. 1968/1699](#)

**75 Offences relating to solemnization of marriages.**

- (1) Any person who knowingly and wilfully—
  - (a) solemnizes a marriage at any other time than between the hours of eight in the forenoon and six in the afternoon (not being a marriage by special licence, a marriage according to the usages of the Society of Friends or a marriage

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between two persons professing the Jewish religion according to the usages of the Jews);

- (b) solemnizes a marriage according to the rites of the Church of England without banns of matrimony having been duly published (not being a marriage solemnized on the authority of a special licence, a common licence or a certificate of a superintendent registrar);
- (c) solemnizes a marriage according to the said rites (not being a marriage by special licence [<sup>F2</sup> or a marriage in pursuance of section 26(1)(*dd*) of this Act]) in any place other than a church or other building in which banns may be published;
- (d) solemnizes a marriage according to the said rites falsely pretending to be in Holy Orders;

shall be guilty of felony and shall be liable to imprisonment for a term not exceeding fourteen years.

(2) Any person who knowingly and wilfully—

- (a) solemnizes a marriage (not being a marriage by special licence, a marriage according to the usages of the Society of Friends or a marriage between two persons professing the Jewish religion according to the usages of the Jews) in any place other than—
  - (i) a church or other building in which marriages may be solemnized according to the rites of the Church of England, or
  - (ii) the registered building [<sup>F3</sup> office or person's residence specified as the place where the marriage was to be solemnized] in the notice of marriage and certificate required under Part III of this Act;
- (b) solemnizes a marriage in any such registered building as aforesaid (not being a marriage in the presence of an authorised person) in the absence of a registrar of the district in which the registered building is situated;

[<sup>F4</sup>(bb) solemnizes a marriage in pursuance of section 26(1)(*dd*) of this Act, otherwise than according to the rites of the Church of England, in the absence of a registrar of the registration district in which the place where the marriage is solemnized is situated;]

- (c) solemnizes a marriage in the office of a superintendent registrar in the absence of a registrar of the district in which the office is situated;
- (d) solemnizes a marriage on the authority of a certificate of a superintendent registrar (not being a marriage by licence) within twenty-one days after the day on which the notice of marriage was entered in the marriage notice book; or
- (e) solemnizes a marriage on the authority of a certificate of a superintendent registrar after the expiration of three months from the said day on which the notice of marriage was entered as aforesaid;

shall be guilty of felony and shall be liable to imprisonment for a term not exceeding five years.

(3) A superintendent registrar who knowingly and wilfully—

- (a) issues any certificate for marriage (not being a marriage by licence) before the expiration of twenty-one days from the day on which the notice of marriage was entered in the marriage notice book, or issues a certificate for marriage by licence before the expiration of one whole day from the said day on which the notice was entered as aforesaid;

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- (b) issues any certificate or licence for marriage after the expiration of three months from the said day;
  - (c) issues any certificate the issue of which has been forbidden under section thirty of this Act by any person entitled to forbid the issue of such a certificate; or
  - (d) solemnizes or permits to be solemnized in his office [<sup>F5</sup>or, in the case of a marriage in pursuance of section 26(1)(*dd*) of this Act, in any other place] any marriage which is void by virtue of any of the provisions of Part III of this Act; shall be guilty of felony and shall be liable to imprisonment for a term not exceeding five years.
- (4) No prosecution under this section shall be commenced after the expiration of three years from the commission of the offence.
- (5) Any reference in subsection (2) of this section to a registered building shall be construed as including a reference to any chapel registered under section seventy of this Act.

#### Textual Amendments

- F2 Words inserted by [Marriage Act 1983 \(c. 32, SIF 49:1\)](#), s. 1(7), [Sch. 1 para. 20\(a\)](#)
- F3 Words substituted by [Marriage Act 1983 \(c. 32, SIF 49:1\)](#), s. 1(7), [Sch. 1 para. 20\(b\)](#)
- F4 [S. 75\(2\)\(bb\)](#) inserted by [Marriage Act 1983 \(c. 32, SIF 49:1\)](#), s. 1(7), [Sch. 1 para. 20\(c\)](#).
- F5 Words inserted by [Marriage Act 1983 \(c. 32, SIF 49:1\)](#), s. 1(7), [Sch. 1 para. 20\(d\)](#)

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

- C3 [S. 75\(1\)\(a\),\(2\)\(a\)](#) excluded by [Marriage \(Registrar General's Licence\) Act 1970 \(c. 34\)](#), [s. 16\(4\)](#)

## 76 Offences relating to registration of marriages.

- (1) Any person who refuses or without reasonable cause omits to register any marriage which he is required by this Act to register, and any person having the custody of a marriage register book or a certified copy of a marriage register book or part thereof who carelessly loses or injures the said book or copy or carelessly allows the said book or copy to be injured while in his keeping, shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup>level 3 on the standard scale].
- (2) Where any person who is required under Part IV of this Act to make and deliver to a superintendent registrar a certified copy of entries made in the marriage register book kept by him, or a certificate that no entries have been made therein since the date of the last certified copy, refuses to deliver any such copy or certificate, or fails to deliver any such copy or certificate during any month in which he is required to do so, he shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup>level 1 on the standard scale].
- (3) Any registrar who knowingly and wilfully registers any marriage which is void by virtue of any of the provisions of Part III of this Act shall be guilty of felony and shall be liable to imprisonment for a term not exceeding five years.
- (4) The balance of any sum paid or recovered on account of a fine imposed under subsection (1) or subsection (2) of this section after making any such payments in respect of court or police fees as are mentioned in paragraphs (a), (b) and (c) of subsection (1) of section five of the <sup>M2</sup>Criminal Justice Administration Act, 1914, shall be paid—

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- (a) in the case of a fine imposed under subsection (1) of this section, into the Exchequer; and
  - (b) in the case of fine imposed under subsection (2) of this section, to the Registrar General or such other person as may be appointed by the Treasury, for the use of His Majesty.
- (5) Subject as may be prescribed, a superintendent registrar may prosecute any person guilty of an offence under either of the said subsections committed within his district, and any costs incurred by the superintendent registrar in prosecuting such a person, being costs which are not otherwise provided for, shall be defrayed out of moneys provided by Parliament.
- (6) No prosecution under subsection (3) of this section shall be commenced after the expiration of three years from the commission of the offence.

#### Textual Amendments

**F6** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

#### Marginal Citations

**M2** [1914 c. 58.](#)

## 77 Offences by authorised persons.

Any authorised person who refuses or fails to comply with the provisions of this Act or of any regulations made under section seventy-four thereof shall be guilty of an offence against this Act, and, unless the offence is one for which a specific penalty is provided under the foregoing provisions of this Part of this Act, shall be liable, on summary conviction, to a fine not exceeding ten pounds or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding fifty pounds, and shall upon conviction cease to be an authorised person.

## 78 Interpretation.

- (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“authorised chapel” means—

- (a) in relation to a chapelry, a chapel of the chapelry in which banns of matrimony could lawfully be published immediately before the passing of the <sup>M3</sup>Marriage Act, 1823, or in which banns may be published and marriages may be solemnized by virtue of section two of the <sup>M4</sup>Marriages Confirmation Act, 1825, or of an authorisation given under section three of the Marriage Act, 1823;
- (b) in relation to an extra-parochial place, a church or chapel of that place in which banns may be published and marriages may be solemnized by virtue of section two of the Marriages Confirmation Act, 1825, or of an authorisation given under section three of the Marriage Act, 1823, or section twenty-one of this Act;
- (c) in relation to a district specified in a licence granted under section twenty of this Act, the chapel in which banns may be published and marriages may be solemnized by virtue of that licence;

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“authorised person” has the meaning assigned to it by section forty-three of this Act;

“brother” includes a brother of the half blood;

“<sup>F7</sup>child of the family”, in relation to any person, means a child who has lived in the same household as that person and been treated by that person as a child of his family]

“clergyman” means a clerk in Holy Orders of the Church of England;

“common licence” has the meaning assigned to it by section five of this Act;

“ecclesiastical district,” in relation to a district other than a parish, means a district specified in a licence granted under section twenty of this Act, a chapelry or an extra-parochial place;

[<sup>F8</sup> “child” means a person under the age of eighteen;];

“marriage notice book” has the meaning assigned to it by section twenty-seven of this Act;

“parish” means an ecclesiastical parish and includes a district constituted under the Church Building Acts, 1818 to 1884, notwithstanding that the district has not become a new parish by virtue of section fourteen of the <sup>M5</sup>New Parishes Act, 1856, or section five of the <sup>M6</sup>New Parishes Measure, 1943, being a district to which Acts of Parliament relating to the publication of banns of matrimony and the solemnization of marriages were applied by the said Church Building Acts as if the district had been an ancient parish, and the expression “parish church” shall be construed accordingly;

“prescribed” means prescribed by regulations made under section seventy-four of this Act;

“registered building” means a building registered under Part III of this Act;

“registrar” means a registrar of marriages;

“Registrar General” means the Registrar General of Births, Deaths and Marriages in England;

“registration district” means the district of a superintendent registrar;

“sister” includes a sister of the half blood;

“special licence” has the meaning assigned to it by section five of this Act;

“superintendent registrar” means a superintendent registrar of births, deaths and marriages;

“trustees or governing body,” in relation to Roman Catholic registered buildings, includes a bishop or vicar general of the diocese.

[<sup>F9</sup>(1A) References in this Act to the parents of a child being or not being married to each other at the time of his birth shall be construed in accordance with section 1 of the Family Law Reform Act 1987.]

(2) Any reference in this Act to the Church of England shall, unless the context otherwise requires, be construed as including a reference to the Church in Wales.

[<sup>F10</sup>(3) For the purposes of this Act a person is house-bound if—

- (a) the notice of his or her marriage given in accordance with section 27 of this Act is accompanied by a medical statement (within the meaning of section 27A(7) of this Act) made, not more than fourteen days before the date on which that notice was given, in relation to that person; and
- (b) he or she is not a detained person.

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- (4) For the purposes of this Act a person is a detained person if he or she is for the time being detained—
- (a) otherwise than by virtue of section 2, 4, 5, 35, 36 or 136 of the Mental Health Act <sup>M7</sup>1983 (short term detentions), as a patient in a hospital; or
  - (b) in a prison or other place to which the Prison Act <sup>M8</sup>1952 applies, and in paragraph (a) above “patient” and “hospital” have the same meanings as in Part II of the Mental Health Act 1983.
- (5) For the purposes of this Act a person who is house-bound or is a detained person shall be taken, if he or she would not otherwise be, to be resident and usually resident at the place where he or she is for the time being.]

#### Textual Amendments

- F7** Definition inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 1(4)(6), **Sch. 1 para. 7**
- F8** Definition substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1), 34(2)(5), **Sch. 2 para. 10(a)**
- F9** S. 78(1A) inserted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1), 34(2)(5), **Sch. 2 para. 10(b)** and repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, Sch. 15 (with **Sch. 14 para. 1(1)**)
- F10** S. 78(3)–(5) inserted by [Marriage Act 1983 \(c. 32, SIF 49:1\)](#), s. 1(7), **Sch. 1 para. 21**

#### Marginal Citations

- M3** 1823 c. 76.  
**M4** 1825 c. 92.  
**M5** 1856 c. 104.  
**M6** 1943 No. 1.  
**M7** 1983 c. 20 (85).  
**M8** 1952 c. 52 (39:1).

## 79 Repeals and savings.

- (1) The Acts specified in Part I of the Fifth Schedule to this Act, and the Measures of the Church Assembly specified in Part II of that Schedule, are hereby repealed to the extent specified in relation thereto in the third column of that Schedule.
- (2) Any banns published, licence or certificate issued, notice, consent, authorisation or direction given, Order in Council, rules, order, declaration, return, appointment or entry made, registration effected, caveat entered or other thing done under any enactment repealed by this Act shall, if in force at the commencement of this Act, continue in force, and have effect as if published, issued, given, made, effected, entered or done under the corresponding provision of this Act.
- (3) Where a period of time specified in any enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.
- (4) Any document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.

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- (5) Nothing in this Act shall affect any law or custom relating to the marriage of members of the Royal Family.
- (6) Nothing in this Act shall affect the right of the Archbishop of Canterbury or any other person by virtue of the <sup>M9</sup>Ecclesiastical Licences Act, 1533, to grant special licences to marry at any convenient time or place, or affect the validity of any marriage solemnized on the authority of such a licence.
- (7) Nothing in this Act shall affect the validity of any marriage solemnized before the commencement of this Act.
- (8) Nothing in this Act shall affect any authority given under section three of the <sup>M10</sup>Marriage Act, 1823, before the repeal thereof for the publication of banns and the solemnization of marriages in any chapel, or affect the operation of section four of that Act in relation to that chapel.
- (9) Nothing in this Act shall affect any right, title, estate, interest, will, claim, payment, commutation, composition, discharge, settlement or other thing, or the devolution or distribution of any property which, by virtue of section two of the <sup>M11</sup>Deceased Wife's Sister's Marriage Act, 1907, was not affected by the Marriage (Prohibited Degrees of Relationship) Acts, 1907 to 1931.
- (10) Nothing in this Act shall enable any proceedings to be taken in an ecclesiastical court which could not have been taken if this Act had not been passed.
- (11) Nothing in this Act shall require any caution or security to be given which would not have required to be given if this Act had not been passed.
- (12) Nothing in this Act shall affect any power to extend a Measure of the Church Assembly to the Channel Islands or affect any such Measure which has been so extended.
- (13) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section thirty-eight of the <sup>M12</sup>Interpretation Act, 1889 (which relates to the effect of repeals).

**Marginal Citations**

- M9** 1533 c. 21.  
**M10** 1823 c. 76.  
**M11** 1907 c. 47.  
**M12** 1889 c. 63.

**80 Short title, extent and commencement.**

- (1) This Act may be cited as the Marriage Act, 1949.
- (2) Save as is otherwise expressly provided, this Act shall not extend to Scotland or to Northern Ireland.
- (3) The provisions of this Act specified in the Sixth Schedule to this Act shall not extend to Wales or Monmouthshire.
- (4) This Act shall come into force on the first day of January, nineteen hundred and fifty.



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