

[AS REPORTED FROM THE STATUTES REVISION
COMMITTEE]

House of Representatives, 7 September 1955

Words struck out by Statutes Revision Committee are shown in italics within bold brackets; words inserted are shown in black, or in roman with rule down side.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 25 October 1955

Words struck out by the Committee are shown in italics within bold brackets and underlined; or in roman enclosed in panel.

Hon. Mr Marshall

MARRIAGE

ANALYSIS

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A BILL INTITULED

Title. AN ACT to consolidate and amend the law relating to marriage.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority 5
of the same, as follows:

Short Title and
commencement.

1. (1) This Act may be cited as the Marriage Act 1955.
(2) This Act shall come into force on the first day of April, nineteen hundred and fifty-six.

PART I

PRELIMINARY

2. In this Act, unless the context otherwise requires,— Interpretation.

5 “Commonwealth country” means a country that is a member of the British Commonwealth of Nations; and includes every territory for whose international relations the Government of that country is responsible:

10 “Deputy Registrar-General” means the person for the time being holding office as Deputy Registrar-General under the Births and Deaths Registration Act 1951: 1951, No. 22

15 “Member of the forces” means a person who is a member of Her Majesty’s forces raised in New Zealand:

20 “New Zealand representative” means an overseas representative within the meaning of the External Affairs Act 1943; and includes any officer appointed under subsection one of section eight of that Act to assist an overseas representative: 1943, No. 5

“Officiating minister” means a person authorized to act as an officiating minister under this Act:

25 “Register book” means a Marriage Register Book compiled in accordance with Part VI of this Act:

“Registrar” means a Registrar of Marriages appointed under this Act:

30 “Registrar-General” means the person for the time being holding office as Registrar-General under the Births and Deaths Registration Act 1951:

“Service marriage” means a marriage between parties one or both of whom are members of the forces.

3. (1) The provisions of this Act, so far as they relate to capacity to marry, shall apply to the marriage of any person domiciled in New Zealand at the time of the marriage, whether the marriage is solemnized in New Zealand or elsewhere. Application of Act.

(2) The provisions of this Act, so far as they relate to the formalities of marriage, including the provisions relating to consents to the marriage of minors, shall apply to any marriage solemnized in New Zealand, and

to any marriage solemnized under section *forty-three* of this Act, whether or not either of the parties to any such marriage is at the time of the marriage domiciled in New Zealand.

Registrar-General and Deputy Registrar-General.
1908, No. 113, s. 4
1912, No. 24 s. 2
1915, No. 25, s. 2

4. (1) The Registrar-General shall be charged with the general administration of this Act. 5

(2) The Deputy Registrar-General shall, under the control of the Registrar-General, have all the powers, duties, and functions of the Registrar-General.

(3) During a vacancy in the office of Registrar-General, or in the case of the absence from duty of the Registrar-General, the Deputy Registrar-General shall have all the powers, duties, and functions of the Registrar-General. 10

Appointment of Registrars and Deputy and Acting Registrars.
1912, No. 24, s. 2
1915, No. 25, s. 2

5. (1) There shall from time to time be appointed such fit persons as may be required to be Registrars of Marriages and Deputy Registrars of Marriages under this Act. 15

(2) In the case of a vacancy in the office of any Registrar, or in the case of the absence from duty of any Registrar, there may be appointed to act for him a fit person to be Acting Registrar, and any such person while so acting shall have all the powers, duties, and functions of the Registrar. 20

(3) The Deputy Registrar shall, under the control of the Registrar or Acting Registrar, have all the powers, duties, and functions of the Registrar. 25

(4) During a vacancy in the office of any Registrar, or during the absence from duty of any Registrar, and so long as no Acting Registrar has been appointed to act for the Registrar, the Deputy Registrar shall have all the powers, duties, and functions of the Registrar. 30

See Reprint of Statutes, Vol. VII, p. 522

(5) Any appointment to the office of Registrar, Deputy Registrar, or Acting Registrar shall be made in accordance with the Public Service Act 1912 in the case of persons who are, or after the appointment will be, employed in the Public Service, and by the Registrar-General by writing under his hand in all other cases. 35

Fact of deputies acting conclusive evidence of authority to do so.
1915, No. 25, s. 2 (3)

6. The fact that the Deputy Registrar-General or any Deputy Registrar or Acting Registrar exercises any power, duty, or function under this Act shall be conclusive evidence of his authority to do so, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorizing him to do so. 40

PART II

OFFICIATING MINISTERS

7. (1) The Registrar-General shall in each year prepare a list of officiating ministers (in this Part of this Act referred to as the list) and shall cause the list to be published in the *Gazette*.

List of officiating ministers. 1908, No. 113, s. 14

(2) The list shall contain the name of each person entitled under this Act to act as an officiating minister and shall be corrected or added to as the occasion may require. The Registrar-General shall cause each correction or addition to the list to be published in the *Gazette*.

(3) The Registrar-General shall specify in each list published in the *Gazette* a date on which the list shall come into force, and on that date all previous lists and all corrections and additions to any previous list shall be deemed to be cancelled and of no effect.

8. (1) Subject to the provisions of subsections *two* and *three* of this section, there shall be entered in the list the name of any minister of religion which has been sent to the Registrar-General by any of the religious bodies enumerated in the *First Schedule* to this Act.

Officiating ministers of specified religious bodies. 1908, No. 113, s. 9

(2) The name of any minister of religion which has been sent to the Registrar-General as aforesaid shall be accompanied by a certificate to the effect that the minister is recognized by the religious body as a minister of religion of that body.

(3) The certificate shall be signed by the person or persons within New Zealand in whom ecclesiastical authority over the religious body is for the time being vested, or reputed to be vested, or, if there is no such person, by two duly recognized office bearers of the religious body.

9. (1) Subject to the provisions of this Act, there may be entered in the list the name of any minister of religion which has been sent to the Registrar-General by any religious body not enumerated in the *First Schedule* to this Act.

Officiating ministers of unspecified religious bodies. 1908, No. 113, s. 10

(2) The name of any minister of religion which has been sent to the Registrar-General as aforesaid shall be accompanied by a certificate to the effect that the minister is recognized by the religious body as a minister of religion of that body.

(3) The certificate shall be signed by the recognized head in New Zealand of the religious body, or by two duly recognized ministers of that body, or by ten adult members thereof.

(4) Where the certificate is signed by ten adult members of the religious body, each signatory to the certificate shall append to his signature his description as being a member of the religious body concerned, and the signatures and descriptions of the members shall be attested by some person other than the minister in respect of whom the certificate is given, and that person shall, by statutory declaration attached to the certificate, verify the signatures as the genuine signatures of the persons whose signatures they purport to be.

Other persons
entitled to
act as
officiating
ministers.
1927, No. 15,
s. 2

10. (1) Subject to the provisions of this Act, there may be entered in the list the name of any adult person belonging to any religious body the constitution or tenets of which do not recognize the office of minister of religion.

(2) The name of any such person shall be sent to the Registrar-General by the religious body concerned and shall be accompanied by a certificate to the effect that the person is accepted by the religious body as a person whose name it desires to be entered in the list.

(3) The certificate shall be signed by ten adult members of the religious body, who shall each append to his signature his description as being a member of the body, and the signatures and descriptions of the members of the religious body signing the certificate shall be attested by some person other than the person in respect of whom the certificate is given, and the person attesting the signatures shall, by statutory declaration attached to the certificate, verify the signatures as the genuine signatures of the persons whose signatures they purport to be.

Registrar-
General to
enter names
of officiating
ministers
in list.
1908, No. 113,
s. 10 (3)
1927, No. 15,
s. 2 (1)

11. (1) If the Registrar-General is satisfied that any person whose name has been sent to him for entry in the list pursuant to section *nine* or section *ten* of this Act is of good character and otherwise qualified to act as an officiating minister, that the body to which the person belongs is a religious body, and that the provisions of this Act in respect of the submission of the name of the person to the Registrar-General have been complied with, the Registrar-General shall enter the name of that person in the list.

(2) If the Registrar-General fails or refuses to enter any name in the list in accordance with this section, he shall, if required to do so by any person who has signed the certificate accompanying the application for the
 5 entry of the name in the list, refer the matter to the Minister of Justice, who may direct the Registrar-General to enter the name of the applicant in the list, and the Registrar-General shall thereupon enter the name in the list accordingly.

10 12. Where it is desired that any person shall continue to act as an officiating minister, his name shall, in the month of December in each year, be sent to the Registrar-General, and the provisions of this Part of this Act shall apply in any such case as if it were an application for the
 15 original entry of the name of the person concerned in the list.

Renewal of list.
 1908, No. 113,
 s. 12

20 13. (1) If the Registrar-General is satisfied as to the suspension or deprivation of any minister of religion or other person whose name appears in the list he shall remove the name of the minister or other person from the list and shall publish in the *Gazette* a correction to the list omitting therefrom the name of the minister of religion or other person to whom the notice relates.

Removal of
 names from list.
 1908, No. 113,
 ss. 13, 15, 38

25 (2) If the Registrar-General is satisfied that any person whose name appears in the list has died, or has ceased to be a minister of religion or a member of the religious body to which he belonged, the Registrar-General shall remove the name of that person from the list and publish in the *Gazette* a correction to the list omitting therefrom
 30 the name of the minister of religion or other person concerned.

35 (3) If the Minister of Justice is satisfied that any person whose name appears on the list has wilfully failed or persistently neglected to register the particulars of any marriage or to forward to the Registrar-General any document required to be so forwarded by this Act, the Minister [*shall*] may direct the Registrar-General to remove the name of that person from the list, and the Registrar-General shall take such action as may be
 40 necessary to comply with the direction.

Evidence of list or correction to list.

1908, No. 113, s. 16

14. (1) No person shall be entitled to act as an officiating minister unless his name appears in the list.

(2) A copy of the *Gazette* purporting to contain a copy of any list or of any correction or addition to any list published in the *Gazette* in accordance with this Part of this Act shall be received in any Court or before any person acting judicially as conclusive evidence of the truth of any statement in any copy published as aforesaid. 5

PART III

RESTRICTIONS ON MARRIAGE 10

Marriage of persons within prohibited degrees of relationship void.

1946, No. 8, s. 9

15. (1) Subject to the provisions of this section, a marriage which is forbidden by the provisions of the *Second Schedule* to this Act shall be void.

(2) Any persons who are not within the degrees of consanguinity but are within the degrees of affinity prohibited by the said *Second Schedule* may apply to the Supreme Court for its consent to their marriage, and the Court, if it is satisfied that neither party to the intended marriage has by his or her conduct caused or contributed to the cause of the termination of any previous marriage of the other party, may make an order dispensing with the prohibition contained in the *Second Schedule* to this Act so far as it relates to the parties to the application and, if such an order is made, that prohibition shall cease to apply to the parties. 15 20 25

(3) The Registrar of the Court where any order under this section is made shall send a copy in duplicate of the order to the Registrar-General.

(4) No marriage not forbidden by the provisions of the *Second Schedule* to this Act shall be void only on the ground of consanguinity or affinity. 30

Validation of certain marriages already solemnized.

1946, No. 8, s. 10

16. All marriages solemnized before the commencement of this Act that by virtue of section *fifteen* of this Act would have been valid and lawful if this Act had been in force when they were solemnized shall be deemed to have been and to be valid and lawful, and the issue born of any such marriage (whether born before or after the commencement of this Act) shall be deemed to have been born in lawful wedlock: 35

Provided that where either of the parties to any such marriage has thereafter during the lifetime of the other party to the marriage and before the commencement of this Act lawfully married any other person, the first
 5 marriage shall be deemed to have been dissolved immediately before the solemnization of the second marriage:

Provided also that this section shall not affect any estate, right, or interest in any real or personal property
 10 to which any person has become absolutely entitled before the commencement of this Act, or affect any proceedings commenced in any Court before the commencement of this Act, or any decree, order, or judgment made or given (whether before or after the commencement of
 15 this Act) in any such proceedings.

17. (1) Except as provided by subsection two of this section, A marriage licence shall not be issued by any Registrar and no marriage shall be solemnized by any Registrar or officiating minister if either of the persons
 20 intending marriage is under the age of sixteen years on the date of the notice of the intended marriage given under section *twenty-three* of this Act.

Marriage of persons under sixteen years of age. 1939, No. 39, s. 41

Struck out

25 (2) A Registrar may issue a marriage licence and a marriage may be solemnized in the case of a woman under the age of sixteen years if a Magistrate has consented to the marriage in accordance with the provisions of subsection *three* of this section.

30 (3) A Magistrate may, on application in that behalf, give his consent to the marriage of a woman under the age of sixteen years if it is shown to him—

- (a) By the certificate of a registered medical practitioner that the woman is pregnant;
- 35 (b) That the provisions of sections *eighteen* and *twenty* of this Act relating to consents have been complied with: and
- (c) That in the circumstances it is in the interests of the parties and of the unborn child that the marriage should take place.

40 (4) The Registrar of the Court where any application under subsection *three* of this section is filed shall send a copy in duplicate of the application to the Solicitor-General.

(5) No marriage shall be void by reason only of an infringement of the provisions of this section.

Consent to
marriage of
minors.
1926, No. 32,
s. 8

18. (1) If either of the parties to an intended marriage is a minor and has not previously been married, the Registrar shall not issue a licence authorizing the marriage or solemnize the marriage unless it has been consented to in accordance with this section. 5

(2) Subject to the provisions of this section, consents to the marriage of a minor shall be obtained in accordance with the following provisions: 10

(a) If the minor is legitimate and both his parents are alive and living together, consents shall be obtained from both parents:

(b) If the minor is legitimate and his parents are living apart and the minor is living with one parent, consent shall be obtained from the parent with whom he is living: 15

(c) If the minor is legitimate and his parents are living apart and the minor is not living with either parent, consent shall be obtained from both parents unless the consent of one parent is dispensed with by a Magistrate: 20

(d) If the minor is legitimate and one parent is dead, consents shall be obtained from the surviving parent and any other person who is the legal guardian of the minor: 25

(e) If the minor is legitimate and both his parents are dead, consent shall be obtained from any person who is the legal guardian of the minor:

(f) If the minor is illegitimate and his mother is living, consent shall be obtained from his mother: 30

(g) If the minor is illegitimate and his mother is dead, consent shall be obtained from any person who is the legal guardian of the minor.

1948, No. 48

(3) If any person is the guardian of a minor pursuant to section five of the Child Welfare Amendment Act 1948, consent shall be obtained from the guardian and no other consent shall be required. 35

(4) Where a parent whose consent is required or is sufficient is deprived of the guardianship of a minor, the consent of the legal guardian shall be required or be sufficient, as the case may be, in place of the consent of that parent. 40

(5) Consent shall not be required from any person who cannot be found or is, because of mental incapacity, unable to give consent and, unless the minor requests the consent, consent shall not be required from any person
5 who is not resident in New Zealand.

(6) Where there is no person whose consent to the marriage of a minor is required under the foregoing provisions of this section, consent to the marriage shall
10 be obtained either from a relative who has been acting in the place of a parent or from a Magistrate.

(7) No marriage shall be void by reason only of the absence of the consent of any person whose consent is required under this section.

19. (1) Where any person whose consent is required to
15 a marriage refuses to give his consent, a Magistrate may, on application in that behalf, consent to the marriage and that consent shall have the same effect as if it had been given by the person whose consent has been refused.
Application to Magistrate where consent refused. 1926, No. 32, s. 8

(2) Where an application is made to a Magistrate
20 for consent to a marriage, notice of the application shall be served on every person whose consent to the marriage is required under section *eighteen* of this Act:

Provided that the Magistrate may in his discretion dispense with the serving of notice on any such person.

25 20. (1) Every consent under section *eighteen* of this Act shall be in writing witnessed by some person who, if resident in New Zealand, shall add his occupation and address, and the consent shall be delivered to the Registrar to whom notice of the intended marriage is
30 given.
General provisions relating to consents.

(2) Any consent given under section *eighteen* of this Act may, by notice in writing signed by the person giving his consent, be withdrawn at any time before the Registrar issues the marriage licence or solemnizes the
35 marriage, as the case may be.

21. If any persons knowingly and wilfully marry without a marriage licence where a marriage licence is required by this Act, or in the absence of an officiating minister or Registrar where the presence of an officiating
40 minister or Registrar is required by this Act, the marriage shall be void.
Marriages without licence or officiating minister void. 1908, No. 113, s. 48

Marriages
not to be
void because
of defects in
procedure.
1908, No. 113,
s. 47

22. (1) Except as provided in section *fifteen* or in section *twenty-one* of this Act, no marriage shall be deemed to be void by reason of any error or defect in the notice, declaration, or licence required before solemnization, or in the registration of the marriage when solemnized where the identity of the parties is not questioned, or on account of any other infringement of the provisions of this Act. 5

(2) Nothing in this section shall exempt any officiating minister, Registrar, or other person who does anything contrary to the provisions of this Act from any penalty for any offence under this Act committed by any such person. 10

PART IV

FORMALITIES PRELIMINARY TO MARRIAGE 15

Notice of
marriage.
1908, No. 113,
s. 17

23. (1) Where two persons intend to marry in New Zealand, one of them shall give notice in the prescribed form to a Registrar.

(2) The person giving notice shall appear personally before the Registrar and shall make a statutory declaration in the prescribed form that the several particulars set forth in the notice are true, that he believes that the marriage is not prohibited by section *fifteen* of this Act, and that there is no other lawful impediment to the intended marriage. 20

Issue of
marriage
licence.
1908, No. 113,
s. 26

24. (1) If the marriage is to be solemnized by an officiating minister, the Registrar shall, upon compliance with the requirements of section *twenty-three* of this Act, and subject to the provisions of this Act, not earlier than the third day after notice of the intended marriage was given, issue in the prescribed form a marriage licence authorizing the marriage of the persons named in the licence at the place described therein: 25

Provided that the Registrar, if he is satisfied that the marriage is not prohibited by this Act, that the requirements of this Act have been complied with, and that inconvenience would otherwise be caused to the persons intending marriage, may issue the licence before that day. 35

(2) The Registrar who has issued a marriage licence may substitute any other place for the place of marriage described in the licence and endorse the notice of marriage accordingly. 40

25. (1) Any person may lodge with any Registrar a caveat against the marriage of any person named in the caveat on the ground that the marriage is one in respect of which a licence should not be issued under this Act.

Caveats may be lodged. 1908, No. 113, s. 22

5 (2) Every caveat shall be in writing signed by or on behalf of the caveator, and shall state his full name and residential address and the particular grounds of objection on which the caveat is founded.

10 (3) Notice of any caveat may be given to any Registrar other than the Registrar with whom it was lodged. The notice shall be in writing signed by or on behalf of the caveator, and shall state his full name and residential address, the date and place of lodgment of the caveat, and the grounds of objection on which the caveat is
15 founded.

(4) Until the caveat has been withdrawn by the caveator or has been discharged as provided by section *twenty-six* of this Act, no licence in respect of the marriage of the person to whom the caveat relates shall
20 be issued by any Registrar with whom the caveat has been lodged or to whom notice of the caveat has been given in accordance with this section, and no such Registrar shall solemnize the marriage.

25 26. (1) On receiving notice under section *twenty-three* of this Act of an intended marriage against which he is aware that a caveat has been lodged, the Registrar shall submit the caveat to a Magistrate who shall forthwith inquire into the grounds of objection stated in the caveat, and, if he is of the opinion that those grounds should not
30 prevent the solemnization of the marriage, he shall discharge the caveat.

Discharge of caveat. 1908, No. 113, s. 22 (2)

(2) A caveat shall be deemed to be discharged after the expiration of one year from the date on which it was lodged unless within that time a notice of the intended
35 marriage to which the caveat relates has been given.

(3) Where a Magistrate has refused to discharge a caveat, any person may make an application to a
40 Magistrate for the discharge of the caveat and the Magistrate, if he is of the opinion that there is no longer any reason why the intended marriage should not be solemnized, shall discharge the caveat.

Vexatious
caveat.
1908, No. 113,
s. 23

27. Any person who has lodged a caveat shall, if the Court considers the grounds on which the caveat was lodged to be vexatious and unreasonable, be liable for damages.

Registrar to
issue licence
unless satisfied
marriage
unlawful.
1908, No. 113,
s. 25

28. A Registrar shall issue a marriage licence or solemnize a marriage, as the case may be, unless he has reasonable cause to believe that the marriage is prohibited by this Act or that any of the requirements of this Act have not been complied with. 5

Licence
authorizes
but not obliges
officiating
minister to
solemnize
marriage.
1908, No. 113,
s. 28

29. A marriage licence shall authorize but not oblige any officiating minister to solemnize the marriage to which it relates. 10

PART V

SOLEMNIZATION OF MARRIAGE

When marriage
may be
solemnized.
1908, No. 113,
s. 31

30. (1) A marriage shall not be solemnized by an officiating minister until the marriage licence issued in respect of the marriage has been delivered to him. 15

(2) A marriage shall not be solemnized after the expiration of three months from the date of the licence issued in respect of the marriage. 20

(3) A marriage shall not be solemnized by a Registrar before the third day after notice of the intended marriage has been given to him:

Provided that the Registrar, if he is satisfied that the marriage is not prohibited by this Act, that the requirements of this Act have been complied with, and that inconvenience would otherwise be caused to the persons intending marriage, may solemnize the marriage before that day. 25

(4) A marriage shall not be solemnized by a Registrar after the expiration of three months from the date when notice of the intended marriage was given to him, or, where a caveat has been lodged, after the expiration of three months from the date when the caveat was withdrawn or discharged. 30

Place and
form of
marriage
before
officiating
minister.
1908, No. 113,
s. 32

31. (1) Every marriage solemnized by an officiating minister shall be solemnized at the place described in the marriage licence issued in respect of the marriage. 35

(2) Every such marriage shall take place between the persons named in the licence according to such form and ceremony as they may think fit to adopt, and shall be solemnized with open doors in the presence of an officiating minister and two or more witnesses, **at any time between the hours of six in the morning and eight in the evening.**

32. (1) The provisions of this Part of this Act relating to the solemnization of marriages in the presence of an officiating minister shall not extend, and shall be deemed not to have extended, to any marriage solemnized (whether before or after the commencement of this Act) in accordance with the marriage regulations of the religious Society of Friends, commonly called Quakers, or in accordance with those regulations except so far as the regulations may require that marriages be solemnized at a place where public meetings for worship are regularly held:

Marriage of
Quakers.
1940, No. 18,
s. 30

Provided that no such marriage shall be solemnized unless a marriage licence has been issued:

Provided also that every such marriage shall be solemnized with open doors at the place stated in the marriage licence.

(2) Every marriage to which this section applies shall be as valid as if solemnized under this Act before an officiating minister, and accordingly shall, for the purposes of this Act, wherever necessary be deemed to have been so solemnized.

(3) A certificate of every such marriage duly signed by both parties to the marriage and by two persons witnessing the marriage shall, within one month next following the solemnization thereof, be transmitted to the Registrar-General by the registering officer of the Society of Friends duly appointed to register the marriage, or by one of the parties to the marriage, stating the date and place of the marriage, the name, designation, and usual residence of each of the parties, and such other particulars as may be required by the Registrar-General.

(4) If a certificate is not transmitted as required by subsection *three* of this section, the registering officer of the Society of Friends and the husband commit an offence and shall each be liable on summary conviction to a fine not exceeding twenty pounds.

(5) Nothing in this section shall be construed to limit in any way the provisions of section *twenty-two* of this Act as to the validity of marriages.

Marriages
before
Registrar.
1908, No. 113,
s. 34

33. (1) The marriage of any persons may, after compliance with the provisions of this Act, be solemnized, with open doors, at the office of and before the Registrar in the presence of two or more witnesses, at any time while the office of the Registrar is ordinarily open for the transaction of public business under this Act. 5

(2) Where any marriage is solemnized before a Registrar, each party to the marriage, in the presence of the Registrar and two witnesses, shall declare: 10

I solemnly declare that I do not know of any lawful impediment to this marriage between me A. B. and C. D. 15

And each of the parties to the marriage shall say to the other:

I call upon these persons here present to witness that I, A. B., take you, C. D., to be my lawful wedded wife (*or* husband). 20

New

Proxy
marriages.

33A. (1) Notwithstanding the provisions of this Act, a marriage solemnized in New Zealand in the absence of one party to the marriage shall, if it is solemnized in accordance with this section, be lawful. 25

(2) A Magistrate may, on application in that behalf, authorize the marriage in New Zealand of any person who is resident in New Zealand to any person who is outside New Zealand if the Magistrate is satisfied that the person who is outside New Zealand is unable to come to New Zealand by reason of the existence of a state of war or armed conflict. 30

(3) All the provisions of this Act shall, as far as they are applicable and with the necessary modifications, apply to any marriage to which this section relates. 35

(4) Regulations under this Act may prescribe the form of any marriage to which this section relates before a Registrar, the manner and form in which the assent of the absent party to any such marriage shall be given, the time during which and the circumstances in which any document signed by the absent party may be revoked and the effect of any such revocation, and such other matters as may be considered necessary in respect of the solemnization and registration of any such marriage. 40

PART VI

REGISTRATION OF MARRIAGES

34. (1) Every officiating minister and every Registrar shall keep for the purpose of recording marriages a book, supplied for the purpose by the Registrar-General, called "The Marriage Register Book".

Marriage registers. 1908, No. 113, s. 36 (1), 39

(2) Any person having lawful custody of a register book shall keep the book safely, and any such person who negligently loses the book, or wilfully or negligently destroys or defaces any entry in the book, or wilfully or negligently allows any entry in the book to be destroyed or defaced while the book is in his custody, commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds.

35. (1) Every officiating minister and every Registrar who solemnizes a marriage shall forthwith register the particulars of the marriage in the register book in the prescribed form.

Particulars of marriage to be entered in register book. 1908, No. 113, ss. 36, 37

(2) A copy of the particulars registered as aforesaid shall be entered on a loose leaf, and the officiating minister or Registrar shall, within ten days after the date of the solemnization of the marriage, forward the copy to the Registrar-General.

(3) Every entry in the register book and every copy of any such entry made in accordance with this section shall be signed by the parties to the marriage to which it relates, by the officiating minister or Registrar who solemnizes the marriage, and by two witnesses to the marriage.

(4) If an officiating minister is called upon to solemnize a marriage and at the time no register book is available, he shall enter the particulars of the marriage on a blank form instead of in the register book and shall, as soon as practicable, affix the form in the register book and that form shall be deemed part of the register book.

(5) Where any copy of an entry made in accordance with this section is lost or mislaid the Registrar or, as the case may be, the officiating minister shall, at the request of the Registrar-General, make and transmit to the Registrar-General a true copy, certified under the

hand of the Registrar or officiating minister, of the entry the copy of which has been lost or mislaid, and the copy transmitted as aforesaid shall be substituted by the Registrar-General for the copy lost or mislaid.

Penalty for failing to register marriage. 1908, No. 113, s. 38

36. Any officiating minister or Registrar who solemnizes any marriage and who neglects to register the particulars of the marriage or to forward to the Registrar-General any document required to be so forwarded by this Part of this Act commits an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds. 5 10

Registrar-General to keep register.

37. The Registrar-General, in addition to the special registers kept by him under sections *forty-two* and *forty-five* of this Act, shall keep a register containing particulars of all marriages notified to him in accordance with this Act. 15

PART VII

MARRIAGES OUT OF NEW ZEALAND

Foreign marriages of British subjects. 55 & 56 Vict., ch. 23
24 & 25 Geo. V, ch. 13
10 & 11 Geo. VI., ch. 33

38. All marriages (whether solemnized before or after the commencement of this Act) which are valid in the United Kingdom by virtue of the Foreign Marriage Acts 1892 to 1947 of the Parliament of the United Kingdom, or by virtue of any Act of the Parliament of the United Kingdom passed in amendment of or in substitution for the Foreign Marriage Acts 1892 to 1947, shall be and shall be deemed always to have been as valid in New Zealand as if solemnized in New Zealand in accordance with this Act: 20 25

Provided that where either of the parties to any such marriage has thereafter during the lifetime of the other party to the marriage and before the commencement of this Act lawfully married any other person, the first marriage shall be deemed to have been dissolved immediately before the solemnization of the second marriage: 30

Provided also that this section shall not affect any estate, right, or interest in any real or personal property to which any person has become absolutely entitled before the commencement of this Act, or affect any proceedings commenced in any Court before the commencement of this Act, or any decree, order, or judgment made or given (whether before or after the commencement of this Act) in any such proceedings. 35 40

Marriages
abroad of
Commonwealth
citizens and
citizens of
Ireland.

Certificate
to person
intending a
foreign
marriage.
Cf. 6 Edw. VII.
ch. 40, s. 1

Notice of
intended
marriage
outside New
Zealand.
1915, No. 25,
s. 6
55 & 56 Vict.,
ch. 23

39. (1) All marriages (whether solemnized before or after the commencement of this Act) at least one party to which is a citizen of a Commonwealth country or of the Republic of Ireland solemnized in a country other than the country of which the party is a citizen in accordance with a form authorized in that case by the law of the country of which the party is a citizen shall be as valid in New Zealand as if solemnized in New Zealand in accordance with this Act.

10 (2) Nothing in this section shall affect the validity of any marriage solemnized out of New Zealand in accordance with the law of the country where the marriage was solemnized.

15 40. (1) Any New Zealand citizen who intends to be married in a country other than New Zealand according to the law of that country and who desires to obtain the certificate referred to in this section for the purpose of complying with the law of that country may give notice to the Registrar-General in the prescribed form.

20 (2) The Registrar-General upon receiving the notice shall make such searches and inquiries and shall give such notices as may be prescribed by regulations under this Act.

25 (3) The provisions of section *twenty-five* of this Act relating to caveats shall apply in respect of intended marriages to which this section relates as they apply to marriages intended to be solemnized in New Zealand under this Act.

30 (4) If no caveat is entered within fourteen days of the receipt by the Registrar-General of the notice referred to in subsection *one* of this section, or if any caveat entered is subsequently withdrawn or discharged, the Registrar-General may issue a certificate in the prescribed form that after proper notices have been given no lawful impediment to the marriage has been shown to the Registrar-General to exist.

35 41. (1) Where any citizen of a Commonwealth country or of the Republic of Ireland resident in New Zealand for at least seven days desires to marry outside New Zealand under the Foreign Marriage Acts 1892 to 1947 of the Parliament of the United Kingdom or to marry any such citizen in the United Kingdom, he may give notice to a Registrar in the prescribed form.

24 & 25 Geo. V,
ch. 13
10 & 11
Geo. VI, ch. 33

(2) The person giving notice shall appear personally before the Registrar and shall make a statutory declaration that the several particulars set forth in the notice are true and that he believes the marriage is not prohibited by the *Second* Schedule to this Act and that there is no other lawful impediment to the marriage. 5

(3) If the person giving notice is under the age of twenty-one years, the same consents shall be required as in the case of a marriage to be solemnized in New Zealand. 10

(4) The provisions of section *twenty-five* of this Act relating to caveats shall apply in respect of intended marriages to which this section relates as they apply to marriages intended to be solemnized in New Zealand.

(5) Subject to the provisions of subsections *two* to *four* of this section, the Registrar shall, after the expiry of fourteen days from the date of giving notice, issue a certificate in the prescribed form that notice of the intended marriage has been given. 15

New Zealand
representative
may attend
marriage
abroad of New
Zealand citizen
and give
certificate.

42. (1) Any New Zealand representative who has attended the marriage of a New Zealand citizen in a country other than New Zealand and is satisfied that the marriage has been solemnized in accordance with the formalities of the law of that other country may give a certificate in the prescribed form and shall forward a duplicate copy of the certificate to the Registrar-General. 20 25

(2) The Registrar-General on receiving, pursuant to subsection *one* of this section, a duplicate copy of the certificate and on being satisfied as to the authenticity thereof, shall bind the duplicate in a special register to be kept by him for the purpose. 30

Validity of
service
marriages.
1946, No. 8,
s. 7 (1)

43. A service marriage solemnized out of New Zealand by any member of the forces who is a chaplain or who is duly authorized in that behalf shall be deemed to have been and to be as valid as if it had been solemnized in New Zealand in accordance with the provisions of this Act. 35

Record of
service
marriages
solemnized
outside New
Zealand.
1946, No. 8,
s. 3

44. (1) Subject to the provisions of subsection *three* of this section, every member of the forces who while out of New Zealand solemnizes a service marriage shall keep a record of the particulars relating to the marriage in a form as nearly as possible in accordance with the form prescribed by regulations in that behalf. 40

(2) Subject to the provisions of subsection *three* of this section, every member of the forces who so solemnizes a service marriage shall, as soon as practicable after the solemnization of the marriage, forward to the Registrar-
5 General a duplicate record of the marriage bearing the actual signatures of the contracting parties, the witnesses, and the member of the forces who solemnized the marriage.

(3) Nothing in this section shall apply in any case
10 where particulars of a service marriage are registered in any Commonwealth country in accordance with the law thereof.

45. (1) The Registrar-General on receiving, pursuant to section *forty-four* of this Act, a duplicate record of
15 particulars of a service marriage solemnized out of New Zealand and on being satisfied as to the authenticity thereof shall bind the duplicate in a special register to be kept by him for the purpose.

Special register
of service
marriages.
1946, No. 8,
s. 4

(2) In any case where a service marriage has been
20 solemnized out of New Zealand by a member of the Forces, whether before or after the passing of this Act, and a duplicate record of the particulars of the marriage has not been received by the Registrar-General under this Act, the Registrar-General, on receiving from either
25 of the parties to the marriage or from any person on behalf of either of the parties or of any of their issue a record of the particulars of the marriage, or an original certificate of the solemnization thereof, purporting to be signed by the person solemnizing the marriage, and on
30 being satisfied as to the authenticity of the record or certificate and that the production of a duplicate record in accordance with section *forty-four* of this Act is impracticable, may accept the record or certificate and bind it in the special register aforesaid as if the record
35 or certificate were the duplicate record as required by the said section *forty-four*.

(3) The Registrar-General, for the purpose of establishing the authenticity of any record or certificate as aforesaid, may examine witnesses on oath and may
40 administer oaths to those witnesses and may require any other proof, by affidavit, declaration, or otherwise, as he thinks fit.

PART VIII

GENERAL

Correction of errors in register books or records.

46. (1) Any clerical error, or any error of fact or substance, or any omission in any register book or record may be corrected in the manner authorized by the Registrar-General. 5

(2) For the purpose of this section the Registrar-General may require to be produced a statutory declaration and such other evidence as he may deem necessary. 10

(3) Any person having custody of a register book shall, upon direction by the Registrar-General, make corrections of any errors or omissions in the register book.

(4) Except as provided by this section, no alteration shall be made in any entry in any register book or record after the entry has been completed. 15

Search of records of Registrar.

47. Every Registrar who has in his custody any notice of marriage or any register book shall, upon the request of any person, cause a search of any such notice or register book to be made, and shall permit that person to inspect any such notice or entry in the register book and to have a copy of any such entry certified under the hand of the Registrar. 20

Search of records of Registrar-General.
1908, No. 113,
s. 40 (1)

48. (1) The Registrar-General shall cause indexes of all records of marriages forwarded to him to be made and kept in his office, and shall, upon the request of any person, cause a search of any index to be made, and shall permit any such person to inspect any copy of a marriage entry. 25

(2) The Registrar-General shall give a certified copy under his hand or seal to any person of any record of a marriage the particulars of which have been registered by him. 30

Shortened form of marriage certificates.

49. (1) Every certified copy of an entry in a register under section *thirty-seven*, section *forty-two*, or section *forty-five* of this Act shall be in the prescribed form and shall include only such particulars as are prescribed. 35

(2) Every such certified copy made in a prescribed form shall, if otherwise correct, be deemed to be a true copy of the original entry in the register, notwithstanding that the prescribed particulars do not include all the particulars in the original entry. 40

50. (1) A certified copy of an entry in a register book purporting to be signed by the officiating minister who solemnized the marriage or by the Registrar for the time being having the lawful custody of the register book shall be received in any Court or before any person acting judicially as *prima facie* evidence of the solemnization of the marriage to which it relates.

Certified copies to be evidence. 1908, No. 113, ss. 40 (2), 43

(2) A certified copy of any entry in any register of marriages kept by the Registrar-General shall, if it purports to be signed by the Registrar-General or stamped with his seal, be received in any Court or before any person acting judicially as *prima facie* evidence of the solemnization of the marriage to which it relates.

(3) A certified copy of the record of any marriage, or of any certificate of any marriage, which is in any special register kept pursuant to section *forty-two* or section *forty-five* of this Act, shall, if it purports to be signed by the Registrar-General or stamped with his seal, be received in any Court or before any person acting judicially as *prima facie* evidence of the solemnization of the marriage to which it relates.

1946, No. 8, s. 6

51. Any person for the time being holding the office of Registrar-General or Deputy Registrar-General or the office of Registrar or Deputy Registrar or Acting Registrar shall, in respect of any statutory declaration required for the purpose of this Act, be deemed a person duly authorized to take and receive a statutory declaration under section three hundred and one of the Justices of the Peace Act 1927.

Officers may take statutory declarations.

52. Upon the making of a decree absolute of dissolution of marriage or a decree of presumption of death and of dissolution of marriage or a decree of nullity of marriage under the Divorce and Matrimonial Causes Act 1928 in respect of any marriage solemnized in New Zealand, the Registrar of the Supreme Court shall forthwith send to the Registrar-General a certificate in duplicate in the prescribed form of the decree.

See Reprint of Statutes, Vol. II, p. 351

Records to be made of dissolution of marriages.

1920, No. 65, s. 3

See Reprint of Statutes, Vol. III, p. 865

53. (1) Upon the conviction of any person for bigamy, the Registrar of the Court in which the conviction is entered shall send to the Registrar-General a certificate in duplicate of the conviction.

Convictions for bigamy to be recorded.

(2) The certificate shall specify the names of the parties to the form of marriage in respect of which the offence was committed, the date and place of the offence, and the date of the conviction.

Records of dissolution of marriage or bigamy to be made in record book. 1920, No. 65, s. 3 (3), (4), (5)

54. (1) On receipt of a certificate under section *fifty-two* or section *fifty-three* of this Act, the Registrar-General shall cause a memorandum of the particulars disclosed therein to be entered on his record of the marriage entry. 5

(2) The Registrar-General shall send the duplicate certificate to the officiating minister or Registrar having lawful custody of the register book in which the marriage is registered, and the officiating minister or Registrar shall enter the particulars disclosed in the certificate on the entry in the register book. 10 15

(3) Every certified copy of an entry in a register book issued after any memorandum has been entered as provided by this section shall contain the particulars disclosed in the memorandum.

Offence to deny or impugn validity of lawful marriage. 1920, No. 65, s. 7

55. (1) Every person commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding one hundred pounds, who— 20

(a) Alleges, expressly or by implication, that any persons lawfully married are not truly and sufficiently married; or 25

(b) Alleges, expressly or by implication, that the issue of any lawful marriage is illegitimate or born out of true wedlock.

(2) For the purposes of this section the term "alleges" means making any verbal statement, or publishing or issuing any printed or written statement, or in any manner authorizing the making of any verbal statement, or in any manner authorizing or being party to the publication or issue of any printed or written statement. 30

(3) A person shall not be deemed to make an allegation contrary to the provisions of this section by reason only of using in the solemnization of a marriage a form of marriage service which at the commencement of this Act was in use by the religious body to which that person belongs, or by reason only of the printing or issue of any book containing a copy of a form of marriage service in use at the commencement of this Act by any religious body. 35 40

56. Any person who without the authority of the Registrar-General makes any alteration in a register book, or any person having lawful custody of a register book who permits any such alteration, commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds.

Offence to alter register book without authority.

57. Every Registrar who knowingly and wilfully issues any marriage licence or solemnizes any marriage contrary to the provisions of this Act, or where there is any other lawful impediment to the marriage, and every officiating minister who knowingly and wilfully solemnizes any marriage contrary to the provisions of this Act, or where there is any other lawful impediment to the marriage, commits an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding five years, or to a fine not exceeding three hundred pounds, or to both.

Offence to solemnize marriage contrary to provisions of this Act.
1908, No. 113, s. 55

58. Every person who falsely pretends to be an officiating minister and solemnizes any marriage, knowingly and wilfully so doing, commits an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding five years.

Offence to solemnize marriage falsely pretending to be officiating minister.
1908, No. 113, s. 54

59. Every person commits an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine not exceeding two hundred pounds, or to both, who knowingly and wilfully—

Offences in connection with false statements and improper solemnization of marriages.
1908, No. 113, s. 53

- (a) Makes or causes to be made any false declaration for the purposes of this Act; or
- (b) Makes or causes to be made, for the purpose of being inserted in any register book, a false statement of any of the particulars required to be known and registered under the provisions of this Act; or
- (c) Notifies any Registrar of the lodgment of a caveat under section *twenty-five* of this Act if in fact no such caveat has been lodged.

Offences generally.

60. (1) Every person who fails to comply with or does any act in contravention of any of the provisions of this Act commits an offence.

(2) Every person who commits an offence against this Act for which no specific penalty is elsewhere provided shall be liable on summary conviction to a fine not exceeding ten pounds. 5

Magistrate to have summary jurisdiction. 1952, No. 41

61. A Magistrate's Court presided over by a Magistrate shall have summary jurisdiction in accordance with the provisions of the Summary Jurisdiction Act 1952 in respect of the indictable offences mentioned in this Act. 10

Limitation on prosecutions. 1908, No. 113, s. 57

62. No prosecution under this Act shall be commenced after the expiration of three years from the date when the offence was committed.

Regulations. 1908, No. 113, s. 8

63. (1) The Governor-General from time to time, by Order in Council, may make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof. 15 20

(2) All regulations under this Act shall be laid before Parliament within twenty-eight days of the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session. 25

Regulations may prescribe fees. 1951, No. 18

64. (1) Regulations under section *sixty-three* of this Act may prescribe fees for the doing of any act under this Act. 30

(2) Where the Registrar-General or any Registrar is empowered by this Act to do any act for which a fee is payable, he may refuse to do the act until the fee is paid.

(3) Notwithstanding the provisions of any regulations under this Act, the Registrar-General may dispense with the payment of any fee payable under this Act. 35

Disposition of fines and fees.

65. All fines recovered and all fees received under this Act shall be paid into the Public Account and form part of the Consolidated Fund. 40

66. (1) The enactments specified in the *Third* Schedule to this Act are hereby repealed. Repeals and savings.

(2) The enactments specified in the *Fourth* Schedule to this Act shall, at the commencement of this Act, cease to have effect as part of the law of New Zealand.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done. See Reprint of Statutes, Vol. VIII, p. 568

(4) It is hereby declared that the provisions of sections twenty and twenty-one of the Acts Interpretation Act 1924 shall apply to the enactments to which subsection *two* of this section applies as if those enactments were Acts of the General Assembly of New Zealand.

Schedules.

SCHEDULES

Section 9 (1)

FIRST SCHEDULE**RELIGIOUS BODIES**

| | |
|---|---|
| Baptists. | The Methodist Church of New Zealand. |
| The Church of the Province of New Zealand, commonly called the Church of England. | The Presbyterian Church of New Zealand. |
| Congregational Independents. | The Roman Catholic Church. |
| All Hebrew Congregations. | The Salvation Army. |
| The Lutheran Churches. | |

Section 15 (1)

SECOND SCHEDULE**FORBIDDEN MARRIAGES**

1. A man may not marry his—

- (1) Grandmother:
- (2) Grandfather's wife:
- (3) Wife's grandmother:
- (4) Father's sister:
- (5) Mother's sister:
- (6) Mother:
- (7) Step-mother:
- (8) Wife's mother:
- (9) Daughter:
- (10) Wife's daughter:
- (11) Son's wife:
- (12) Sister:
- (13) Son's daughter:
- (14) Daughter's daughter:
- (15) Son's son's wife:
- (16) Daughter's son's wife:
- (17) Wife's son's daughter:
- (18) Wife's daughter's daughter:
- (19) Brother's daughter:
- (20) Sister's daughter:

2. A woman may not marry her—

- (1) Grandfather:
- (2) Grandmother's husband:
- (3) Husband's grandfather:
- (4) Father's brother:
- (5) Mother's brother:
- (6) Father:
- (7) Step-father:
- (8) Husband's father:
- (9) Son:
- (10) Husband's son:
- (11) Daughter's husband:

SECOND SCHEDULE—continued

FORBIDDEN MARRIAGES—continued

- (12) Brother:
- (13) Son's son:
- (14) Daughter's son:
- (15) Son's daughter's husband:
- (16) Daughter's daughter's husband:
- (17) Husband's son's son:
- (18) Husband's daughter's son:
- (19) Brother's son:
- (20) Sister's son.

3. The foregoing provisions of this Schedule with respect to any relationship shall apply whether the relationship is by the whole blood or by the half blood and whether the relationship is legitimate or illegitimate.

4. In this Schedule, unless the context otherwise requires, the term "wife" means a former wife, whether she is alive or deceased, and whether her marriage was terminated by death or divorce or otherwise; and the term "husband" has a corresponding meaning.

THIRD SCHEDULE

Section 66 (1)

ENACTMENTS REPEALED

- 1908, No. 113—
The Marriage Act 1908. (Reprint of Statutes, Vol. III, p. 826.)
- 1912, No. 24—
The Marriage Amendment Act 1912. (Reprint of Statutes, Vol. III, p. 845.)
- 1915, No. 25—
The Marriage Amendment Act 1915. (Reprint of Statutes, Vol. III, p. 845.)
- 1919, No. 27—
The Marriage Amendment Act 1919. (Reprint of Statutes, Vol. III, p. 847.)
- 1920, No. 65—
The Marriage Amendment Act 1920. (Reprint of Statutes, Vol. III, p. 848.)
- 1926, No. 32—
The Guardianship of Infants Act 1926: Section 8 and Schedule. (Reprint of Statutes, Vol. III, p. 1132.)
- 1926, No. 41—
The Marriage Amendment Act 1926. (Reprint of Statutes, Vol. III, p. 849.)
- 1927, No. 15—
The Marriage Amendment Act 1927. (Reprint of Statutes, Vol. III, p. 850.)
- 1927, No. 30—
The Guardianship of Infants Amendment Act 1927: Section 2. (Reprint of Statutes, Vol. III, p. 1134.)

*THIRD SCHEDULE—continued**ENACTMENTS REPEALED—continued*

- 1933, No. 5—
The Marriage Amendment Act 1933.
- 1939, No. 39—
The Statutes Amendment Act 1939: Section 41.
- 1940, No. 18—
The Statutes Amendment Act 1940: Section 30.
- 1941, No. 26—
The Statutes Amendment Act 1941: Section 47.
- 1946, No. 8—
The Marriage Amendment Act 1946.
- 1947, No. 60—
The Statutes Amendment Act 1947: Sections 39, 40, and 41.
- 1948, No. 48—
The Child Welfare Amendment Act 1948: Section 8.
- 1951, No. 18—
The Marriage Amendment Act 1951.
- 1952, No. 41—
The Summary Jurisdiction Act 1952: So much of the Schedule as relates to the Marriage Act 1908.

FOURTH SCHEDULE

Section 66 (2)

*ENACTMENTS CEASING TO HAVE EFFECT IN NEW ZEALAND**Enactments of the Parliament of England*

- 28 Hen. VIII, ch. 16—
The Ecclesiastical Licences Act 1536.
- 32 Hen. VIII, ch. 38—
The Marriage Act 1540.
- 2 & 3 Edw. VI, ch. 23—
An act for the repeal of a statute touching precontract 1548.

Enactments of the Parliament of the United Kingdom

- 12 & 13 Vict., ch. 68—
The Consular Marriage Act 1849.
- 28 & 29 Vict., ch. 64—
The Colonial Marriages Act 1865.
- 31 & 32 Vict., ch. 61—
The Consular Marriage Act 1868.
- 53 & 54 Vict., ch. 47—
The Marriage Act 1890.
- 54 & 55 Vict., ch. 74—
The Foreign Marriage Act 1891.