

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1922.

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## A BILL

To consolidate and amend the laws relating to marriage; to repeal the Marriage Act, 1899; to amend the Registration of Births, Deaths, and Marriages Act, 1899, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Marriage Act, 1922," and shall commence and come into force on the day of Commence-ment and short title.

(2) This Act is divided into Parts as follows :—

- PART I.—PRELIMINARY—*ss.* 1-3.
- PART II.—DISTRICTS, REGISTRARS, &C.—*ss.* 4-9.
- PART III.—OFFICIATING MINISTERS—*ss.* 10-19.
- PART IV.—CERTIFICATE OF CONFORMITY.
  - DIVISION 1.—*Notices of intended marriage—s.* 20.
  - DIVISION 2.—*Consent in the case of Minors—ss.* 21, 22.
  - DIVISION 3.—*Caveats, &c.—ss.* 23-25.
  - DIVISION 4.—*Issue of Certificate—ss.* 26-31.
- PART V.—CELEBRATION OF MARRIAGES—
  - DIVISION 1.—*Celebration—ss.* 32-41.
  - DIVISION 2.—*Prohibition of certain houses—s.* 42.
- PART VI.—VALIDITY OF MARRIAGES.
  - DIVISION 1.—*Marriages not to be avoided or affected for certain reasons—ss.* 43-46.
  - DIVISION 2.—*Validation of certain marriages—ss.* 47-49.
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  - DIVISION 4.—*Quakers and Jews—s.* 51.
- PART VII.—FOREIGN MARRIAGES—*ss.* 52-54.

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PART VIII.—TRANSFERRED CLERGY RETURNS—  
ss. 55, 56.

PART IX.—MARRIAGE CERTIFICATE BOOKS, IN-  
DEXES, &C.—ss. 57-65.

PART X.—PENALTIES—ss. 66-77.

**2.** In this Act, unless the context or subject-matter <sup>Definitions.</sup> otherwise indicates or requires,—

“Certificate of conformity” means the certificate issued by the district registrar authorising the celebration of the marriage.

“Certificate of marriage” means the certificate issued by the minister or district registrar immediately after the celebration of the marriage.

“District registrar” includes assistant district and deputy registrars appointed under this Act.

“Officiating minister” means a minister whose name is on the register of those authorised under this Act to celebrate marriages.

“Registrar-General” means the Registrar-General appointed under the Registration of Births, Deaths, and Marriages Act, 1899.

**3.** (1) On the commencement of this Act the Acts mentioned in the First Schedule of this Act are to the extent therein expressed hereby repealed. <sup>Repeal and saving clauses.</sup>

(2) All ministers of religion registered as ministers for celebrating marriages under the authority of any Act hereby repealed, and continuing to be so registered at the time of the commencement of this Act, shall be deemed to be officiating ministers for the time being under this Act, until the gazetting of the first official list of ministers issued by the Registrar-General under the provisions of this Act, and no longer. <sup>First Schedule.</sup>

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PART

PART II.

DISTRICTS, REGISTRARS, &c.

**4.** The Governor may by proclamation divide New South Wales, for the purposes of this Act, into such districts as he thinks fit, and assign a distinct name to every such district, and may in a similar manner vary the names and boundaries of such districts or abolish any of the same. Districts to be proclaimed.

**5.** (1) The Registrar-General shall, on and after the commencement of this Act, be the Registrar-General of Marriages thereunder. Registrar-General.

(2) The Governor may also appoint a Deputy Registrar-General under this Act, who shall act as Registrar-General in case of death, illness, or unavoidable absence. The said Deputy Registrar-General shall have all the powers and privileges, and shall perform all the duties, and shall be subject to all the responsibilities of the Registrar-General : Appointment of Deputy-Registrar-General.

Provided that the Deputy Registrar-General shall not have the power given by section eight hereof of making regulations.

**6.** The Governor may also appoint district registrars and assistant district registrars under this Act. Appointment of district registrars.

**7.** (1) The Registrar-General and every district registrar are hereby respectively empowered to receive and take the several fees specified in the Second Schedule hereto, and all fees so received shall be paid to the Colonial Treasurer at such times and in such manner as prescribed by regulation. Fees. Second Schedule.

(2) Any district registrar or other person required by this Act to do any act for which a fee is demandable may refuse to do such act until such fee is first paid.

**8.** (1) The Registrar-General may, subject to the approval of the Governor, make regulations for the general management of the general registry and all district registrars' offices, and for the preparation and transmission of all returns from district registrars and officiating ministers respectively, and for the preparation of indexes to be kept at the general registry and all district Regulations.

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district registrars' offices, and for the safety and preservation of all records and entries made by the district registrars and officiating ministers respectively, and for the more effectual carrying out of the provisions of this Act.

(2) Such regulations when so approved shall be published in the Gazette, and be thereupon as binding on all persons affected thereby as if they formed a Part of this Act.

9. All powers and duties conferred and imposed upon district registrars by this Act shall be taken to be conferred and imposed upon the Registrar-General and the Deputy Registrar-General.

## PART III.

## OFFICIATING MINISTERS.

10. (1) No marriage shall be celebrated except by—

- (a) an officiating minister ; or
- (b) the Registrar-General or any Deputy Registrar-General ; or
- (c) the district registrar who, under this Act, issues the certificate of conformity hereinafter mentioned.

Persons  
authorised to  
celebrate  
marriages.

(2) In the celebration of a marriage by a district registrar the form of words set forth in the Third Schedule hereto shall be repeated and signed by the parties to such marriage in the presence of the district registrar.

Marriage by  
registrar.  
Third  
Schedule.

11. (1) Any minister of religion belonging to any of the denominations enumerated in the Fourth Schedule hereto in regard to whom the person, or persons, in New South Wales, having, or reputed to have ecclesiastical authority over such denominations, has certified that he is a minister entitled to registration in accordance with the provisions of this Act shall, upon registration by the Registrar-General, as hereinafter provided, be an officiating minister.

Officiating  
ministers.  
Fourth  
Schedule.

(2)

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(2) The Registrar-General may, with the approval of the Governor, add the name or names of any other religious body or bodies to the Fourth Schedule, and may in like manner remove any name or names from the said Schedule.

**12.** (1) Any minister of religion not connected with any of the bodies enumerated in the said Fourth Schedule, who furnishes to the Registrar-General a certificate signed by the recognised head in New South Wales of the religious body to which he belongs, or by two officiating ministers, or by ten adult members thereof who append to their signatures their description as being such members, declaring that such minister is their officiating minister, shall be entitled to have his name registered on the register of officiating ministers within the meaning of this Act.

Ministers of religious bodies not enumerated in Fourth Schedule.  
N.Z. Act, No. 113, 1908, s. 10.

(2) The signatures and descriptions of the aforesaid ten adult members to any such certificate shall be attested by some person who shall verify the signatures to the certificate as the genuine signatures of the persons whose they purport to be, by a statutory declaration signed by such person and appended to the certificate.

**13.** (1) The several ecclesiastical authorities as aforesaid of the respective religious bodies shall send into the Registrar-General, in the month of November in every year, a correct list of their officiating ministers.

Correct lists to be sent in every year.  
*Ibid.* s. 11.

(2) Every certificate under the hands of any office-bearers or ministers or adult members respectively as aforesaid shall be sent in to the Registrar-General anew in the month of November in every year.

**14.** Every list of officiating ministers, and certificate under the hands of office-bearers or ministers or adult members, shall continue in force from the day on which the same is sent to the Registrar-General, until the registration of the persons named therein by the Registrar-General in the official register of ministers after the succeeding November, and no longer.

Lists to be in force for one year only.  
*Ibid.* s. 12.

**15.** The person having ecclesiastical authority over the several religious bodies as aforesaid shall, upon the suspension or deprivation of any minister whose name has been sent in to the Registrar-General in manner hereinbefore

Ecclesiastical authorities to send in names of ministers, and certify suspensions of deprivation of any ministers.  
*Ibid.* s. 13.

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hereinbefore mentioned, forthwith certify such suspension or deprivation to the Registrar-General, who shall forthwith make a minute of such suspension or deprivation in the register of officiating ministers hereinafter mentioned, and no such person shall be deemed an officiating minister until his name has been again sent into the Registrar-General in manner hereinbefore mentioned.

**16.** (1) The Registrar-General shall file all such certificates and lists, and keep them with the records of his office; and shall also forthwith register the names sent in to him, as hereinbefore mentioned, in a book to be kept by him for the purpose, and called the "register of officiating ministers," and shall from time to time alter and correct the said register as occasion requires, and shall, in the month of December in every year, cause a copy of such list to be gazetted.

List of ministers to be gazetted. N.Z. Act, No. 113, 1908, s. 14.

(2) In case of any additional names of ministers being sent in to him during any part of the year in the manner aforesaid, the Registrar-General shall cause such names to be registered upon the aforesaid register and gazetted, and the persons so registered shall be deemed officiating ministers for the purposes of this Act.

Addition of names.

(3) The Minister may, upon the recommendation of the Registrar-General, refuse to allow registration to any minister otherwise entitled to have his name registered on the said list in accordance with the two preceding subsections.

**17.** Where notice is sent to the Registrar-General of the suspension or deprivation of any minister whose name has been entered upon the register of officiating ministers, the Registrar-General shall thereupon erase such name from the aforesaid register, and cause a notification to be gazetted that the name of such minister is withdrawn from the register of officiating ministers, and such person shall from the date of such publication cease to be an officiating minister within the meaning of this Act.

Cancellation of names. Ibid. s. 15.

**18.** The entry of the name of any officiating minister in the book called the register of officiating ministers shall be conclusive evidence of the right of such officiating minister to act as such from the date of the certificate of

Evidence of the right of officiating ministers to act. Ibid. s. 16.

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of the person or persons having ecclesiastical authority, or of the office-bearers, or of the ministers or adult members aforesaid respectively, as the case may be, sent in to the Registrar-General in respect of such officiating minister upon which such entry and publication was made.

19. The Governor may, on the recommendation of the Minister, by notification in the Gazette, deprive any person on the register of officiating ministers of the right to act as such where any such person—

Power to deprive officiating minister of right to act.

- (a) is convicted of any felony or misdemeanour or of any breach of this Act; or
- (b) is guilty of any misconduct in the celebration of any marriage; or
- (c) is, in the opinion of the Minister, making a business of celebrating marriages for the purpose of profit or gain, irrespective of carrying out the ordinary duties of a minister.

The Governor may, in like manner, annul any such deprivation.

PART IV.

CERTIFICATE OF CONFORMITY.

DIVISION 1.—Notices of intended marriage.

20. (1) One of the persons intending marriage shall, under his or her hand, apply for a certificate of conformity by giving notice in the form in the Fifth Schedule hereto, to the registrar of the district within which one of the persons has dwelt for not less than three days.

Notice of every intended marriage to be given. Fifth Schedule.

Such person shall therein truly state, with respect to each of the parties, the information required in the said Schedule.

N.Z. Act, No. 113, 1908, ss. 17 and 18.

If the persons intending marriage dwell in the districts of different registrars, the like notice shall be given to the registrar of each district.

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(2) Every notice of an intended marriage shall be fairly written in a book to be kept for the purpose, and called the "marriage-notice book," and the signature of the person giving the notice shall be affixed to the entry in the book. To be entered in a book open for inspection.

The marriage-notice book shall be open during the ordinary office hours to all persons desiring to inspect the same.

*DIVISION 2.—Consent in the case of minors.*

**21.** (1) If either party to any intended marriage, not being a widower or widow, is under the age of twenty-one years, a certificate of conformity shall not be granted without production to the district registrar of the consent in writing of a parent of such party as hereinafter defined, or of a guardian legally appointed by the father, or if both parents are dead or incapable of duly consenting by reason of distance, habitual intoxication, or mental incapacity, then of some stipendiary or police magistrate or a guardian of minors appointed for that purpose as hereinafter provided. Consent in case of minority.

(2) For the purposes of this section the words "a parent" shall mean the father, except where—

- (a) the father is dead or incapable of duly consenting by reason of distance, habitual intoxication, or mental incapacity; or
- (b) such party has for the preceding three years been living apart from such father, with and under the care and control of his or her mother; or
- (c) the mother of such party has for a like period been deserted by her husband or has obtained a protection order against him; or
- (d) a decree of judicial separation, nullity of marriage, or dissolution of marriage has been pronounced giving to the mother the custody of such party; or
- (e) such party is illegitimate;

in any of which cases they shall mean the mother:

Provided that they shall mean a stipendiary or police magistrate or guardian of minors, where the mother is absent or unable on account of any unfitness to give the said consent. (3)

(3) Such consent shall be signed by the parent or guardian either before the district registrar at his office, or before a justice of the peace or a solicitor of the Supreme Court, or an officiating minister within the meaning of this Act, and be attested by such registrar, justice, solicitor, or officiating minister:

Provided that a consent in writing by the mother may be produced by either party in the case of the party being illegitimate:

Provided also that when the parent resides outside or is absent from New South Wales, it shall be sufficient to produce the consent in writing of such parent, signed before any commissioner for affidavits, or justice of the peace, or any solicitor of any Supreme Court.

(4) A magistrate or guardian of minors before giving a consent under this section shall make inquiry on oath as to the facts and circumstances of the case. Inquiry by magistrate or guardian before giving consent.

(5) For the purposes mentioned in this section the judges of the Supreme Court or any three of them may appoint one or more guardian or guardians of minors in every district registrar's district who may, by virtue of such appointment and until such appointment is cancelled, give consent in such cases as aforesaid. Appointment of guardian to consent.

(6) Such judges may cancel any such appointment. Cancellation.

(7) Every such appointment and every cancellation of the same shall be notified in the Gazette. Notification.

**22.** When a certificate of conformity is granted upon the production of any such written consent as aforesaid, a statement of the fact of such consent shall be indorsed on such certificate. Consent to be indorsed on registrar's certificate.

### DIVISION 3.—*Caveats, &c.*

**23.** Any person whose consent is required as aforesaid may forbid the issue of the district registrar's certificate of conformity by writing, at any time, in the presence of the registrar before the issue of the certificate, the word "Forbidden" opposite to the entry of the notice of such intended marriage in the marriage-notice book, and Issue of certificate may be forbidden. N.Z. Act, No. 113, 1908, s. 21.

and by subscribing thereto his or her name and place of abode, and the relationship or guardianship by reason whereof he or she is authorised to forbid the issue of such certificate.

**24.** (1) Any person having just and reasonable cause in that behalf may enter a caveat with the district registrar against the grant of a certificate of conformity for the marriage of any person named in the caveat. Caveat may be entered. N.Z. Act, No. 113, 1908, s. 22.

(2) If any caveat is entered with the district registrar, such caveat being duly signed by or on behalf of the person who entered the same, together with his or her place of residence, and the ground of objection on which his or her caveat is founded, no certificate of conformity shall be granted until the registrar has examined into the matter of the caveat and is satisfied that it ought not to obstruct the grant of the said certificate or until the caveat is withdrawn by the person entering the same. Effect of caveat.

(3) Upon the entering of any caveat with the district registrar, he shall forthwith forward a copy of such caveat to the Registrar-General :

Provided where a district registrar refuses the grant of a certificate of conformity, the person applying for the same shall have a right to appeal to a judge of the Supreme Court or of the district court in a summary way, who shall thereupon either confirm the refusal or direct the grant of the certificate. Appeal on refusal.

**25.** If a person enters a caveat with the district registrar against the issue of any certificate of conformity on grounds which a judge of the Supreme Court or of the district court declares to be frivolous or vexatious, and such as ought not to obstruct the issue of the certificate, such person shall be liable for the cost of the proceedings and for damages to be assessed by such judge when making such declaration and awarded by him to the person against whose marriage such caveat was entered. The latter person shall thereupon be entitled to sign judgment for the amount of such costs and damages. If caveat vexatious. Ibid. s. 23.

*Issue*

*Issue of certificate.*

**26.** (1) The district registrar shall require the person giving notice of the intended marriage to make a solemn declaration of the truth of the several particulars set forth in such notice; and also one of the persons intending marriage shall appear personally before such registrar, and shall make his or her solemn declaration that he or she believes that there is not any impediment of kindred or alliance or other lawful hindrance to the said marriage, and that one of the persons has, for the space of three days immediately before the day of making such declaration, had his or her place of abode within the district wherein such marriage is to be celebrated.

Declaration to be made before certificate granted.  
N.Z. Act, No. 113, 1908, s. 24.

(2) Where either of the persons, not being a widow or widower, is under the age of twenty-one years, such person shall further produce to the district registrar in a separate writing the consent in writing of the person or persons whose consent to such marriage is required by section twenty-one of this Act.

Provision in case of minors.

**27.** (1) It shall be lawful for the district registrar to whom notice has been given under section twenty hereof, upon receipt of such notice, and upon the making of the declaration and the production of the consents in writing required by section twenty-one hereof by one of the persons intending marriage to issue after three clear days a certificate of conformity in the cases following, that is to say:—

Immediate certificates of conformity may be issued in certain cases.  
*Ibid.* s. 26.

Where it appears from the notice and declaration that both the persons intending marriage are of full age, or, if a person is under age, that such is a widow or widower; or

Where the person being under age, and not a widow or widower, the consent in writing of the person or persons whose consent to such marriage is required under section twenty-one of this Act, is produced to the said registrar in a separate writing.

(2)

(2) Every certificate of conformity issued under this Act shall be in the form in the Sixth Schedule hereto, and shall be in force for a period of one month from the date thereof:

Sixth  
Schedule.

Provided that the district registrar, if satisfied that such marriage cannot be celebrated within the aforesaid period, may in his discretion substitute a longer period not exceeding three months.

**28.** No certificate of conformity shall be issued by any district registrar if any lawful impediment is shown to the satisfaction of such registrar to the issue thereof, nor if the issue of such certificate has been forbidden in manner hereinbefore mentioned by any person or persons authorised in that behalf.

No certificate  
to issue if any  
impediment.  
N.Z. Act,  
No. 113, 1908,  
s. 25.

**29.** (1) Every certificate as aforesaid issued by any district registrar shall be full authority for any officiating minister or for himself to celebrate any marriage where both the persons intending to contract such marriage dwell in the same district; but if those persons dwell in different districts, certificates from the registrars of both districts shall be required.

Certificate to  
authorise, but  
not oblige,  
officiating  
ministers.  
*Ibid.* s. 28.

(2) No such certificate shall oblige any officiating minister to celebrate any marriage.

**30.** Where a marriage has not been celebrated within the period granted under the certificate of conformity, such certificate shall be utterly void.

Notice, certifi-  
cate, &c., good  
for the period  
therein stated.  
*Ibid.* s. 29.

**31.** Every district registrar shall, on or within seven days after the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December respectively in each year, make a return to the Registrar-General of every certificate granted by such registrar since his last return, and of the particulars stated in every notice received by him.

Registrars to  
make  
quarterly  
returns.  
*Ibid.* s. 30.

PART V.

CELEBRATION OF MARRIAGES.

DIVISION 1.—*Celebration.*

**32.** The district registrar's certificate of conformity (or certificates, as the case may be), shall, immediately before the celebration of any marriage, be delivered by one of the persons about to be married, to the officiating minister or registrar celebrating the marriage, as is hereinafter provided.

Certificate to be delivered to officiating minister.  
N.Z. Act, No. 113, 1908, s. 31.

No marriage shall be celebrated without such delivery of the said certificate or certificates.

**33.** Every such marriage shall be celebrated in the place stated in the notice of marriage, between the persons described in the notice, according to such form and ceremony as they may see fit to adopt.

Place and time for marriage to be solemnised.  
*Ibid.* s. 32.

**34.** Every marriage shall be celebrated in the presence of two witnesses at least.

Witnesses.  
No. 15, 1899, s. 4.

**35.** (1) Every certificate of marriage shall be in the form of the Seventh Schedule hereto.

Certificate.  
Seventh Schedule.  
*Ibid.* s. 5 (3).

(2) After the celebration of the marriage the certificate of marriage and a duplicate thereof shall be signed by the officiating minister or district registrar and by the parties and by the witnesses.

Signing certificate.  
*Ibid.* s. 5 (4).

(3) Immediately after the marriage the officiating minister or district registrar shall deliver the said duplicate to one of the parties to the marriage.

Duplicate to be delivered to parties.  
*Ibid.* s.5 (5).

**36.** Every marriage celebrated by any such officiating minister or district registrar as aforesaid shall be a legal and valid marriage to all intents and purposes and no other marriage except as herein provided shall be valid for any purpose.

Essentials for valid marriage.  
*Ibid.* s. 6.

**37.** Within one week after the marriage the minister or registrar celebrating the marriage shall transmit the original certificate and the certificate of conformity to the Registrar-General.

Transmission of original certificate.  
*Ibid.* s. 7.

**38.** The Registrar-General shall at the public expense furnish forms of marriage certificates to every district registrar and to every officiating minister.

Registrar-General to supply forms.  
*Ibid.* s. 8.

**39.**

**39.** In every case in which a marriage is to be celebrated after notice as prescribed by section twenty, the Registrar-General or any person authorised in writing by him shall have access to the house or building in which the marriage is to be celebrated for the purpose of being present during the celebration thereof.

Registrar-General may be present at marriages.

**40.** It shall be lawful for the officiating minister or registrar by whom any marriage is celebrated under the provisions of this Act to ask from the persons to be married the several particulars to be entered upon the certificate of marriage, and it shall be the duty of such person to supply the same in so far as they are able to do so.

Minister may ask questions of parties.

**41.** Nothing in this Act shall be taken to preclude any officiating minister from demanding or receiving any customary fees for celebrating any marriage.

Minister's fees.

#### DIVISION 2.—*Prohibition of certain houses.*

**42.** (1) The Governor, by proclamation published in the Gazette, may declare that after a date therein specified it shall be unlawful for any minister to celebrate marriages in any house or building mentioned in such proclamation, and may revoke or alter any such proclamation.

Governor may prohibit marriages in certain houses.

(2) But no such proclamation shall be so published until after seven days' notice has been given by the Registrar-General to the occupier of such house or building, either personally or by post, or by affixing a copy of such notice on the front of such house or building.

Notice of such prohibition.

Such notice shall specify a place where, and the date on which an inquiry will be held as hereinafter provided, at which such occupier may appear and be heard in opposition to the publication of such proclamation.

For the purpose of holding such inquiry, the Governor shall appoint a district court judge, either alone or with two other persons appointed by the Governor in that behalf, and the person or persons so appointed shall at such inquiry have authority to hear, receive, and examine evidence on oath, and shall report to the Governor his or their opinion thereon.

(3)

(3) If, after the publication of any such proclamation, and after the date therein specified, any marriage is, in contravention of such proclamation, celebrated in such house or building, the registration of the minister celebrating such marriage shall, without further or other authority than this section, be forthwith cancelled by the Registrar-General, and such minister shall be guilty of a misdemeanour. Penalty.

PART VI.

VALIDITY OF MARRIAGES.

DIVISION 1.—*Marriages not to be avoided or affected for certain reasons.*

**43.** No marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being an officiating minister if either of the parties to the marriage at the time bona fide believed that he was such officiating minister. Celebration by person not a minister. No. 15, 1899, s. 12.

**44.** No marriage shall be affected by reason of the omission by the minister celebrating the same to cause his name, designation, or usual residence to be registered according to this Act. Omission of minister to register his name. Ibid. s. 14.

**45.** (1) It shall not be necessary, in support of any marriage celebrated under this Act, to give any proof of the actual dwelling of either of the persons so married previous to the marriage within the district wherein such marriage was celebrated for the time required or of the consent of any person whose consent thereunto is required by this Act. Marriages not to be invalid for certain reasons. N.Z. Act, No. 113, 1908, s. 47.

(2) Nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage; neither shall any marriage be deemed to have been unduly celebrated by reason of any mere error or defect in the notice, declaration, or certificate of Inadmissible evidence.



of uniformity required before celebration, or in the certificate of marriage and registration thereof when celebrated, where the identity of the parties is not questioned, nor on account of any other infringement of the provisions of this Act, except as provided in the next succeeding section.

**46.** If any persons knowingly and wilfully intermarry without the certificate of conformity from the district registrar, or in the absence of an officiating minister or district registrar when the presence of an officiating minister or district registrar as aforesaid is necessary under this Act, the marriage of such persons shall be null and void.

Marriages knowingly celebrated unduly to be void.  
N.Z. Act, No. 113, s. 48.

DIVISION 2.—*Validation of certain marriages.*

**47.** Every marriage celebrated in New South Wales before the first day of March one thousand eight hundred and fifty-six by any minister of religion or person ordinarily officiating as such shall be and be deemed to have been from the time of the celebration thereof a perfectly legal and valid marriage to all intents and purposes notwithstanding any non-compliance with forms or other irregularity attending the celebration.

Marriages before 1st March, 1856.  
No. 15, 1899, s. 16.

**48.** No marriage celebrated in New South Wales on or after the first day of March one thousand eight hundred and fifty-six shall be deemed or declared invalid by reason only of the fact that both or either of the parties to such marriage may not have made the declaration required by section four of the Act nineteenth Victoria number thirty :

Marriages on or after 1st March, 1856.  
*Ibid.* s. 17.

Provided that no marriage declared invalid by any competent court before the passing of this Act shall be validated by anything herein contained.

**49.** Every marriage otherwise lawful heretofore or hereafter celebrated in New South Wales between any person and the sister of his deceased wife shall be deemed and is hereby declared to have been and to be valid and of full force and effect, any law or custom to the contrary notwithstanding.

Marriage with deceased wife's sister.  
*Ibid.* s. 18.

DIVISION

DIVISION 3.—*Marriages not legalised.*

- 50.** Nothing in sections twenty-nine or thirty-six contained shall legalise any marriage—
- (a) heretofore declared invalid by any competent court,
- (b) where either party thereto had another wife or husband then living,
- (c) which would have been or would be void but for the provisions of the said sections by reason of relationship, kindred, or alliance, or of fraud, or incapacity to contract marriage,
- (d) where (the same being at the time of its celebration invalid) either of the parties thereto afterwards and before the thirtieth day of November one thousand eight hundred and fifty-five intermarried with some other person.

Certain marriages not legalised. No. 15, 1899, s. 19.

DIVISION 4.—*Quakers and Jews.*

**51.** (1) Except as hereinafter provided nothing in this Act shall extend to any marriage between parties of whom both are Quakers or Jews.

Act not to apply. *Ibid.* s. 20.

(2) Every marriage celebrated between parties being both Quakers or both Jews shall be as legal and valid as if duly solemnised under the provisions of this Act if such marriage was when celebrated a valid marriage according to the usages of the Quakers or Jews as the case may be:

Such marriages valid.

Provided that notice of the intended marriage is given as required by this Act, and the district registrar's certificate of conformity prior to such marriage is duly issued.

(3) A certificate of every such marriage shall within ten days next following be transmitted to the registrar of the district within which it was celebrated by the person celebrating the marriage or by one of the parties thereto stating the date and place of such marriage and the name, designation, and usual residence of each of those parties.

Certificate of such marriage to be sent to registrar.

PART VII.

FOREIGN MARRIAGES.

**52.** Notice of a marriage intended to be celebrated under the Act of the Imperial Parliament, called the Foreign Marriage Act, 1892, may be given by one of the parties intending such marriage who has had his or her usual place of abode for three consecutive weeks immediately preceding in some place in New South Wales to the Registrar-General.

Notice where one of the parties resides in New South Wales.

**53.** Such notice shall be published as the Registrar-General may direct, either by a single proclamation of banns in a church or chapel named by the said Registrar-General, or by publication in at least two newspapers chosen by him.

Publication of notice.

**54.** The Registrar-General, unless he is aware of any impediment or objection which should obstruct the celebration of the marriage, shall on payment of the fee of *five* shillings, give a certificate that the said notice has been so given and published as aforesaid.

Certificate of notice and publication.

PART VIII.

TRANSFERRED CLERGY RETURNS.

**55.** (1) The Registrar-General shall keep in the General Registry all returns of marriages and all transcripts, registers, and records thereof, and every index of or to the same which under the provisions contained in the Clergy Returns Transfer Act of 1878, were transferred to the Registrar-General.

Registrar to keep transferred clergy returns. No. 17, 1899, s. 17.

(2) The Registrar-General shall grant certificates or certified copies of such returns, transcripts, registers, and records in like manner as under the provisions of this Act applicable to the registration of marriages or incidental or consequent thereon.

Certificates of such returns.

**56.**

**56.** All certified copies issued by the Registrar-General under the next preceding section shall have the like force and effect to all intents and purposes as certificates and certified copies issued under the provisions of this Act.

Certificates  
and fees.  
No. 17, 1889,  
s. 18.

The like fees shall be chargeable and paid for such certified copies and for searches as are authorised by section seven of this Act and the Second Schedule hereto.

## PART IX.

### MARRIAGE CERTIFICATE BOOKS, INDEXES, &c.

**57.** (1) Every officiating minister or district registrar by whom a marriage is celebrated shall forthwith register in a book to be kept for that purpose, and called the "marriage register book," a copy of the certificate of marriage.

Marriage  
register book  
to be kept by  
officiating  
minister.

(2) Every such entry shall be signed by the officiating minister or district registrar, as the case may be, and every entry shall be made from page to page in order from the beginning to the end of such book.

**58.** The marriage register book shall be safely kept by the officiating minister and district registrar respectively, and shall always be produced to the Registrar-General on demand.

Book to be  
kept safely.

Upon the said book being completed, the officiating minister or district registrar shall forward the same to the Registrar-General.

**59.** Every officiating minister or district registrar who refuses or neglects to register a copy of the certificate of marriage in the marriage certificate book, shall be liable to a penalty not exceeding *fifty* pounds.

Penalty for  
neglect to  
register.

**60.** The Registrar-General shall, at the public expense, furnish to every officiating minister or district registrar marriage certificate books and marriage register books.

**61.**

**61.** The Registrar-General shall cause indexes to be made of certificates of conformity, certificates of marriage, marriage register books, and other records as may be determined from time to time by regulations. Indexes to be kept.

**62.** The Registrar-General shall permit any person demanding to do so, upon payment of the fees prescribed in the Second Schedule, to have a copy certified under the Registrar-General's hand of any record of any marriage, or any particulars thereof, for which a fee is prescribed in the said Schedule. Searches and certified copies.

**63.** (1) When an error is discovered to have been committed in the form or substance of any entry in any notice of intended marriage, or certificate of conformity, or certificate of marriage, the person charged with the duty of making such entry shall not be liable to any penalty if within one month after the discovery of the error he truly correct the same by making, signing, and dating a new entry in the margin without altering the original entry.

(2) Every such correction shall be made in the presence of either of the parties, and in the presence of the district registrar.

**64.** Any such copy of a certificate of marriage so certified shall be received as prima facie evidence in any court of justice of the fact of the marriage to which it relates having been celebrated. Certified copies as evidence.

**65.** The Registrar-General shall cause a seal or stamp to be made for the General Registry and for each district registry office and the Registrar-General and district registrars respectively shall sign and cause to be sealed or stamped therewith all certificates or certified copies given in their respective offices. Office seals.

PART XIV.

PENALTIES.

66. Whosoever obstructs or hinders the Registrar-General, or any person authorised by him, in the exercise of any powers conferred on him by this Act, shall on conviction be liable to a penalty not exceeding *fifty* pounds.

Obstructing Registrar-General.

67. Every person is liable to imprisonment with or without hard labour, for any term not exceeding *two* years, or to a penalty not exceeding *fifty* pounds, who—

Offences. N.Z. Act, No. 113, 1908, s. 53.

(a) knowingly and wilfully makes any false affirmation or declaration for the purpose of procuring any district registrar's certificate; or

Making false declaration.

(b) forbids the issue of the district registrar's certificate by falsely representing himself or herself to be a person whose consent to such marriage is required by law, knowing such representation to be false; or

False representation.

(c) knowingly and wilfully celebrates any marriage in any other place than the church, office or place specified in the certificate required by this Act; or

Celebrating marriage elsewhere than required by this Act.

(d) knowingly and wilfully celebrates any marriage without a certificate from the district registrar, as required by this Act; or

Celebrating without certificate of conformity.

(e) wilfully makes or causes to be made, for the purpose of being inserted in any district registrar's certificate or marriage register-book, any false statement touching any of the particulars required to be known and registered under the provisions of this Act.

Making false statements.

68. (1) Every person commits an offence against this Act, and is liable on summary conviction to a penalty of *one hundred* pounds, who—

Offence to deny or impugn validity of lawful marriages.

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

N.Z. Act, No. 65 of 1920, s. 7.

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

(2)

(2) "Alleges" in this section means making any verbal statement or publishing or issuing any printed or written statement, or in any manner authorising the making of any verbal statement, or in any manner authorising or being party to the publication or issue of any printed or written statement.

(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 solemnisation of a marriage a form of marriage service which at the commencement of this Act was in use by the religious denomination to which such 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 denomination.

**69.** Every person who celebrates or professes or attempts to celebrate any marriage without the certificate of conformity or contrary to the provisions of this Act shall, except when some other penalty is imposed by this Act, be guilty of a misdemeanour.

Penalty for celebrating marriage contrary to this Act.

**70.** If, on the ground that he is a minister of religion ordinarily officiating as such, any person causes his name to be registered under this Act, knowing at the time that he is not a minister of religion ordinarily officiating as such, he shall be guilty of a misdemeanour.

Falsely causing name to be registered as minister.

**71.** Every person who falsely pretends to be an officiating minister, and celebrates any marriage, knowingly and wilfully so offending, is liable to imprisonment with hard labour for any term not exceeding seven years.

Celebrating marriage, falsely pretending to be officiating minister.

N.Z. Act, No. 113, 1908, s. 54.

**72.** Every person who celebrates or professes or attempts to celebrate marriage in the case of any person under the age of twenty-one years, not being a widower or widow, knowing that the consent produced to the registrar is not by a person authorised by this Act to give such consent, shall be guilty of a misdemeanour.

Knowingly celebrating marriage of a minor without authorised consent.

**73.** Every person who—

- (a) induces or endeavours to induce any minister, district registrar, or other person to celebrate marriage between parties, one of whom he or she knows to be under age, without the consent required by this Act; or
- (b)

Inducing marriage of minor without consent.

(b) abets or assists the offender in any such act knowing the same to be illegal, shall be guilty of a misdemeanour.

74. Every district registrar is liable to imprisonment with hard labour for any term not exceeding seven years who knowingly and wilfully issues any certificate of marriage except the provisions of this Act are first complied with, or any certificate the issue of which has been forbidden as aforesaid by any person authorised to forbid the issue of such certificate, or celebrates in his office or elsewhere any marriage herein declared to be null and void.

Registrar acting illegally in certain cases. N.Z. Act, No. 113, 1908, s. 55.

75. Every person guilty of a misdemeanour for a breach of this Act, for which no specific penalty or punishment is provided, shall be liable to a penalty not exceeding five hundred pounds, or to imprisonment for a term not exceeding five years or to both such penalty and imprisonment.

Punishment for misdemeanour.

76. (1) Every person who objects to take an oath under the provisions of this Act may make in lieu thereof a solemn affirmation or be examined as the case may be upon his solemn affirmation.

Affirmation instead of oath. No. 15, 1899, s. 27.

(2) Any person who wilfully makes any false statement on oath or by solemn affirmation before any district registrar or before any justice of the peace appointed under any of the provisions of this Act or intended or purporting so to be shall be deemed guilty of perjury, and be liable to prosecution and punishment accordingly.

Perjury.

77. Every action or prosecution under this Act shall be commenced within the space of three years after the offence was committed.

Limitation of prosecutions. N.Z. Act, No. 113, 1908, s. 57.

78. Every penalty imposed by this Act or by any regulation made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered in a summary manner before a stipendiary or police magistrate, or two justices of the peace, according to the Acts in force for the time being regulating summary proceedings before justices.

Recovery of penalties.

SCHEDULES.



## Marriage.

25

## SCHEDULES.

## FIRST SCHEDULE.

Section 3 (1).

Reference to Act.	Title or Short Title.	Extent of Repeal.
Act No. 15, 1899...	Marriage Act, 1899 ...	The whole.
Act No. 17, 1899...	Registration of Births, Deaths, and Marriage Act, 1899.	The whole in so far as it relates to marriages.

## SECOND SCHEDULE.

Section 7 (1).

*Fees.*

	£	s.	d.
For every notice given of an intended marriage ...	0	2	6
For every inspection of marriage notice book ...	0	1	0
For every caveat entered ... ..	0	5	0
For every certificate authorising marriage ...	1	0	0
For every marriage celebrated by Registrar ...	1	0	0
For a search in any register or record of marriages extending over a period of not more than one year ... ..	0	2	6
For every additional year ... ..	0	1	0
For every certified copy of an entry therein ...	0	2	6
For every search in any index or marriage records in the Department of the Registrar-General	0	5	0

## THIRD SCHEDULE.

Section 10.

*Form of Marriage before Registrar.*

I, *Thomas Williams*, being the *Thomas Williams* described in the certificate of conformity now delivered under the provisions of section 32 of the Marriage Act, 1922, do hereby declare in the presence of A.B., registrar of marriages for the district of *Bathurst*, that I take *Mary Edwards*, being the *Mary Edwards* described in the certificate of conformity now delivered as aforesaid, to be my lawful wife. And I, the said *Mary Edwards*, do declare that I take the said *Thomas Williams* to be my lawful husband.

(Date.)

(Signatures.)

## FOURTH

Marriage.

FOURTH SCHEDULE.

Section 11.

Religious Bodies.

- Church of England.
- Roman Catholic Church.
- Methodist Church of Australasia in New South Wales.
- Presbyterian Church of Australia in the State of New South Wales.

FIFTH SCHEDULE.

Section 20:

NEW SOUTH WALES.

MARRIAGE ACT, 1922.

Notice of Intended Marriage.

To the District Registrar of Births, Deaths, and Marriages at

I hereby give notice that the persons who are identified in the following Schedule intended to intermarry, and I make application for the issue of a certificate of conformity to authorise such marriage.

	<i>Bridegroom.</i>	<i>Bride.</i>
Surname ... ..		
Christian name ... ..		
Condition [ <i>if divorced, state so here</i> ]		
Birthplace ... ..		
Age last birthday ... ..		
Calling or profession ... ..		
Present residence ... ..		
Usual residence ... ..		
Father's name and surname, and rank or profession ... ..		
Mother's name and maiden surname		

Church or other building where marriage is to be celebrated

Situation of church or building

Registration district

Dated this                      day of                      one thousand nine  
                                         hundred and

Signature of one of the parties  
to the intended marriage

Marriage.

SIXTH SCHEDULE.

Section 27.

NEW SOUTH WALES.

MARRIAGE ACT, 1922.

Certificate of Conformity.

Notice of an intended marriage between and who are identified in the following Schedule, having been duly given to me by one of the parties, and all the requirements of the Marriage Act, 1922, in regard to such notice having been complied with, I hereby certify that the said marriage may be lawfully celebrated: Provided it is publicly celebrated in the presence of an officiating minister (or the district registrar for the district) and of two or more witnesses, and in the church or place mentioned in the Schedule.

Table with 3 columns: Surname, Christian name, Condition, Birthplace, Age last birthday, Calling or profession, Present residence, Usual residence, Father's name and surname, and rank or profession, Mother's name and maiden surname. Sub-columns: Bridegroom., Bride.

Church or other building where marriage is to be celebrated

Situation of church or building

Registration district

This certificate of conformity will remain in force until after which it will become absolutely void, and any person acting upon it after that date will be liable to a penalty.

Dated this day of , one thousand nine hundred and

District Registrar for the district of at

Marriage.

SEVENTH SCHEDULE.

Section 35,

NEW SOUTH WALES.

MARRIAGE ACT, 1922.

Certificate of Marriage.

It is hereby certified that (name of bridegroom) and (name of bride) who are identified in the following Schedule, were this day, at the place therein mentioned, united in marriage.

	Bridegroom.	Bride.
Surname ... ..		
Christian name ... ..		
Condition ... ..		
Birthplace ... ..		
Age last birthday ... ..	years	years
Calling or profession ... ..		
Present residence ... ..		
Usual residence ... ..		
Father's name and surname and rank or profession ... ..		
Mother's name and maiden surname.		

Church or other building wherein marriage celebrated

Situation of Church or building

Registration district

Dated this day of one thousand nine hundred and

Signature of officiating Minister, or District Registrar. }

Signature of parties to the marriage. }

Signatures of witnesses to the marriage. { Occupation Address }