

MARRIAGE.

No. 12 of 1961.

An Act relating to Marriage.

[Assented to 6th May, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Marriage Act 1961*.

Short title.

2.—(1.) Sections one, two and three, sub-section (1.) of section five, section nine, Parts III. and VIII. and section one hundred and twenty of this Act shall come into operation on the day on which this Act receives the Royal Assent.

Commencement.

(2.) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1–9).

Part II.—Marriageable Age and Marriages of Minors (Sections 10–21).

Part III.—Application of Prohibited Degrees of Consanguinity and Affinity (Sections 22–24).

Part IV.—Solemnization of Marriages in Australia.

Division 1.—Authorization of Ministers of Religion and other Persons as Celebrants (Sections 25–39).

Division 2.—Marriages by Authorized Celebrants (Sections 40–51.)

Division 3.—Marriages by Foreign Diplomatic or Consular Officers (Sections 52–59).

Part V.—Solemnization of Marriages Overseas.

Division 1.—Administration (Sections 60–64).

Division 2.—Marriages by Marriage Officers (Sections 65–70).

Division 3.—Marriages by Chaplains (Sections 71–72).

Division 4.—General (Sections 73–88).

Part VI.—Legitimation (Sections 89–93).

Part VII.—Offences (Sections 94–106).

Part VIII.—Transitional Provisions (Sections 107–110).

Part IX.—Miscellaneous (Sections 111–120).

Repeal and savings.

4.—(1.) The *Marriage (Overseas) Act 1955* and the *Marriage (Overseas) Act 1958* are repealed.

(2.) Notwithstanding the repeal effected by the last preceding sub-section—

(a) section sixteen of the *Marriage (Overseas) Act 1955–1958*; and

(b) section five of the *Marriage (Overseas) Act 1958*,

continue to apply to and in relation to marriages and purported marriages referred to in those sections.

(3.) The repeal of the *Marriage (Overseas) Act 1955* does not affect the repeal effected by section thirty-two of that Act of section twenty-two of the Imperial Act known as the Foreign Marriage Act, 1892.

Interpretation.

5.—(1.) In this Act, unless the contrary intention appears—

“ Ambassador ” includes Minister, Head of Mission and *Chargé d’Affaires* ;

“ Australia ” includes Norfolk Island ;

“ Australian Consular Officer ” and “ Australian Diplomatic Officer ” have the same respective meanings as in the *Consular Fees Act 1955* ;

“ authorized celebrant ” means—

(a) a minister of religion registered under Division 1 of Part IV. of this Act ;

(b) a person authorized to solemnize marriages by virtue of sub-section (1.) of section thirty-nine of this Act ; or

(c) a person authorized by the Attorney-General to solemnize marriages in pursuance of sub-section (2.) of section thirty-nine of this Act ;

“ chaplain ” means a chaplain in the Defence Force ;

“ Consul ” includes Consul-General, Vice-Consul, Pro-Consul and Consular Agent

“ Judge ” means—

(a) in relation to a State—a Judge of a Court of the State in respect of whom an appropriate arrangement in force under section nine of this Act is applicable ; and

(b) in relation to a Territory—a Judge of the Supreme Court of the Territory ;

“ magistrate ” means—

- (a) in relation to a State—a person who holds office as a Chief, Police, Stipendiary, Resident or Special Magistrate of the State and in respect of whom an appropriate arrangement in force under section nine of this Act is applicable; and
- (b) in relation to a Territory—a person who holds office as a Chief, Police, Stipendiary, Resident or Special Magistrate of the Territory;

“ marriage officer ” means a person appointed under Part V. of this Act as a marriage officer;

“ minister of religion ” means—

- (a) a person recognized by a religious body or a religious organization as having authority to solemnize marriages in accordance with the rites or customs of the body or organization; or
- (b) in relation to a religious body or a religious organization in respect of which the last preceding paragraph is not applicable, a person nominated by—
 - (i) the head, or the governing authority, in a State or Territory, of that body or organization; or
 - (ii) such other person or authority acting on behalf of that body or organization as is prescribed,

to be an authorized celebrant for the purposes of this Act;

“ minor ” means a person who has not attained the age of twenty-one years;

“ official house ”, in relation to a marriage officer, means—

- (a) an official house of residence of the officer;
- (b) an office in which the business of the officer is transacted; or
- (c) a prescribed place,

and, in the case of a marriage officer serving on the staff of an Ambassador, includes—

- (d) the official house of residence of the Ambassador; and
- (e) an office in which the business of the Ambassador is transacted;

“ overseas country ” means a country or place other than a part of the Queen’s dominions, and, in Part V. of this Act, includes a vessel which is for the time being in the territorial waters of such a country or place;

“prescribed authority” means—

- (a) in relation to a marriage proposed to be solemnized in Australia—a person, being an authorized celebrant or a justice of the peace, appointed by the Attorney-General to be a prescribed authority;
- (b) in relation to a marriage proposed to be solemnized in accordance with Division 2 of Part V. of this Act—a marriage officer; or
- (c) in relation to a marriage proposed to be solemnized in accordance with Division 3 of Part V. of this Act—a chaplain;

“recognized denomination” means a religious body or a religious organization in respect of which a Proclamation under section twenty-six of this Act is in force;

“Territory” means the Australian Capital Territory, the Northern Territory of Australia or Norfolk Island;

“the commencement of this Act” means the time of commencement of the provisions of this Act other than the provisions referred to in sub-section (1.) of section two of this Act;

“the Queen’s dominions” includes a British protectorate and a British protected State.

(2.) Where—

- (a) a marriage is solemnized in the presence of a person, being a person in whose presence a marriage may, in accordance with this Act, be lawfully solemnized; and
- (b) that person consents to the marriage being solemnized in his presence,

that person shall, for the purposes of this Act, be deemed to solemnize the marriage.

(3.) Any appointment or authorization under this Act may be an appointment or authorization of—

- (a) a named person only; or
- (b) every person from time to time holding or acting in a specified office of the Commonwealth or of a State or Territory.

6. This Act shall not be taken to exclude the operation of—

- (a) a law of a State or of a Territory, in so far as that law relates to the registration of marriages; or

Act not
to exclude
operation of
certain State
and Territory
laws.

- (b) a law of a State or of a Territory making special provision for the welfare of aboriginal natives of Australia or other persons, in so far as that law makes provision for or in relation to requiring the consent of an officer or authority of the State or Territory to the marriage of any person who has attained the age of twenty-one years,

but a marriage solemnized after the commencement of this Act is not invalid by reason of a failure to comply with the requirements of such a law.

7. Subject to sub-section (2.) of section four of this Act and to the operation of Part III. of this Act before the date fixed under sub-section (2.) of section two of this Act, this Act does not affect the validity or invalidity of a marriage that took place before the date so fixed.

Validity of certain marriages not affected.

8.—(1.) The whole of this Act extends to Norfolk Island.

(2.) Part V. of this Act applies both within and without Australia.

Extension of Act to Territories, &c.

(3.) Part VII. of this Act applies to and in relation to—

- (a) marriages solemnized, or intended or purporting to be solemnized, in Australia; and
 (b) marriages solemnized, or intended or purporting to be solemnized, under Part V. of this Act,

and, in relation to such marriages, applies both within and without Australia.

(4.) Sections seventy-three and one hundred and eleven of this Act extend to all the Territories of the Commonwealth.

9.—(1.) The Governor-General may make arrangements with the Governor of a State—

Arrangements with States.

- (a) for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that State of the functions of a Judge under section twenty-four of this Act;
 (b) for the performance by all or any of the persons who from time to time hold office as Judges of any Court of that State of the functions of a Judge under sections twelve and seventeen of this Act;
 (c) for the performance by all or any of the persons who from time to time hold office as Chief, Police, Stipendiary, Resident or Special Magistrates in that State of all or any of the functions of a magistrate under this Act;
 (d) for the performance by officers of that State of the function of solemnizing marriages in accordance with Division 2 of Part IV. of this Act;

- (e) for enabling officers of that State to be appointed as prescribed authorities;
- (f) for enabling officers of that State to be appointed as Registrar and Deputy Registrar of Ministers of Religion for that State under Division 1 of Part IV. of this Act; and
- (g) for enabling officers of that State to be appointed as authorized officers for the purposes of section fifty-one of this Act.

(2.) A copy of each arrangement made under this section shall be published in the *Gazette*.

PART II.—MARRIAGEABLE AGE AND MARRIAGES OF MINORS.

Application of Part.

10.—(1.) The whole of this Part applies, notwithstanding any common law rule of private international law, in relation to—

- (a) marriages to which Division 2 of Part IV. of this Act applies; and
- (b) marriages under Part V. of this Act.

(2.) Sections eleven and twelve of this Act and, so far as they have application in relation to those sections, sections eighteen and nineteen of this Act apply in relation to—

- (a) marriages to which Division 3 of Part IV. of this Act applies; and
- (b) the marriage of a person domiciled in Australia, wherever that marriage takes place.

Marriageable age.

11. Subject to the next succeeding section—

- (a) a male person is of marriageable age if he has attained the age of eighteen years; and
- (b) a female person is of marriageable age if she has attained the age of sixteen years.

Authorization of marriage of person under age of 18 or 16 years in exceptional circumstances.

12.—(1.) A male person who has attained the age of sixteen years but has not attained the age of eighteen years, or a female person who has attained the age of fourteen years but has not attained the age of sixteen years, may apply to a Judge or a magistrate in a State or to a Judge in a Territory for an order authorizing him or her to marry a particular person of marriageable age notwithstanding that the applicant has not attained the age of eighteen years or sixteen years, as the case may be.

(2.) The Judge or magistrate shall, subject to sub-section (4.) of this section, hold an inquiry into the relevant facts and circumstances and, if he is satisfied that—

- (a) the applicant has attained the age of sixteen years or fourteen years, as the case may be; and

(b) the circumstances of the case are so exceptional and unusual as to justify the making of the order, he may, in his discretion, make the order sought, but otherwise he shall refuse the application.

(3.) Subject to sub-section (5.) of this section, where a Judge or a magistrate has made such an order, the person on whose application the order was made is, in relation to his or her marriage to the other person specified in the order, but not otherwise, of marriageable age.

(4.) Where a Judge or a magistrate to whom an application is made under this section is satisfied that the matter could more properly be dealt with by a Judge or a magistrate sitting at a place nearer the place where the applicant ordinarily resides, he may, in his discretion, refuse to proceed with the hearing of the application, but such a refusal shall not, for the purposes of section nineteen of this Act, be deemed to be a refusal of the application.

(5.) Where an order is made under this section and the marriage to which the order relates does not take place within three months after the date of the order, the order ceases to have effect.

13.—(1.) Subject to this Part, where a party to an intended marriage, not having previously been married, is a minor, the marriage shall not be solemnized unless there is produced to the person by whom or in whose presence the marriage is solemnized—

Marriage of
minor not to
be solemnized
without consent
of parents, &c.

(a) in respect of each person whose consent is required by this Act to the marriage of the minor, not being a person to whom paragraph (b) of this sub-section is applicable—

(i) the consent in writing of that person, duly witnessed and dated not earlier than three months before the date on which the marriage is solemnized or, in such cases as are prescribed, such other evidence that the consent of that person to the intended marriage has been given not earlier than that time as the regulations declare to be sufficient for the purposes of this section; or

(ii) an effective consent in writing of a magistrate or a Judge under this Part in place of the consent of that person; and

(b) in respect of any person whose consent to the marriage of the minor has been dispensed with by a prescribed authority—the dispensation in writing signed by the prescribed authority.

(2.) For the purposes of the last preceding sub-section, the consent of a person is duly witnessed if the signature of that person was witnessed—

- (a) in the case of a consent signed in Australia—by an authorized celebrant, a Commissioner for Declarations under the *Statutory Declarations Act 1959*, a justice of the peace, a barrister or solicitor, a legally qualified medical practitioner or a member of the Police Force of the Commonwealth or of a State or Territory; or
- (b) in the case of a consent signed in any other place—by an Australian Diplomatic Officer or an Australian Consular Officer, a judge of a court of that place, a magistrate or justice of the peace of or for that place or a notary public,

and not otherwise.

(3.) A person shall not subscribe his name as a witness to the signature of a person to a consent to a marriage unless—

- (a) he is satisfied on reasonable grounds as to the identity of that person; and
- (b) the consent bears the date on which he subscribes his name as a witness.

(4.) A person shall not solemnize a marriage if he has reason to believe that—

- (a) a person whose consent in writing to the marriage of one of the parties is or has been produced for the purposes of this section has revoked his consent;
- (b) the signature of a person to a consent produced for the purposes of this section is forged or has been obtained by fraud;
- (c) a consent produced for the purposes of this section has been altered in a material particular without authority; or
- (d) a dispensation with the consent of a person that has been produced in relation to the marriage has ceased to have effect

Persons whose consent is required.

14.—(1.) The person or persons whose consent is required by this Act to the marriage of a minor shall, subject to this section, be ascertained by reference to the Schedule to this Act according to the facts and circumstances existing in relation to the minor.

(2.) For the purposes of the Schedule to this Act—

- (a) a minor is an adopted child if he was adopted under the law of a State or of any Territory of the Commonwealth or under the law of any other place; and

(b) a minor born illegitimate whose parents subsequently married each other is the legitimate child of his parents.

(3.) Where an Act, a State Act or an Ordinance of any Territory of the Commonwealth provides that a person specified in the Act, State Act or Ordinance is to be the guardian of a minor, or requires that a specified person is to be deemed to be the guardian of a minor, to the exclusion of any parent or other guardian of the minor, that person is the person whose consent is required by this Act to the marriage of the minor.

(4.) Where, under a State Act or an Ordinance of any Territory of the Commonwealth, a person specified in the State Act or Ordinance is to be, or is to be deemed to be, a guardian of a minor in addition to the parents or other guardian of the minor, the consent of that person is required to the marriage of the minor in addition to the consent of the persons or persons ascertained in accordance with the Schedule to this Act.

15.—(1.) Subject to this section, a prescribed authority may, upon application in writing by a minor, dispense with the consent of a person to a proposed marriage of the minor where the prescribed authority—

Prescribed authority may dispense with consent in certain cases

- (a) is satisfied that it is impracticable, or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable, to ascertain the views of that person with respect to the proposed marriage;
- (b) has no reason to believe that that person would refuse his consent to the proposed marriage; and
- (c) has no reason to believe that facts may exist by reason of which it could reasonably be considered improper that the consent should be dispensed with.

(2.) An application under this section shall be supported by a statutory declaration by the applicant setting out the facts and circumstances on which the application is based and may be supported by the statutory declaration of some other person.

(3.) The applicant shall state in his statutory declaration whether he has made any previous applications under this section that have been refused and the date on which each such application was refused.

(4.) This section does not authorize a prescribed authority to dispense with the consent of a person to a marriage of a minor where any other person whose consent to the marriage is required by this Act has refused to give his consent, unless a magistrate or a Judge has, in pursuance of this Part, given his consent in place of the consent of that other person.

(5.) For the purposes of this section, the fact that a person does not reside in, or is absent from, Australia shall not of itself be deemed to make it impracticable to ascertain the views of that person.

Consent by
magistrate
where parent,
&c., refuses
consent, &c.

16.—(1.) Where, in relation to a proposed marriage of a minor—

- (a) a person whose consent to the marriage is required by this Act refuses to consent to the marriage; or
- (b) an application by the minor under the last preceding section to dispense with the consent of a person to the marriage is refused,

the minor may apply to a magistrate for the consent of the magistrate to the marriage in place of the consent of that person.

(2.) The magistrate shall, subject to the next succeeding sub-section, hold an inquiry into the relevant facts and circumstances and, if he is satisfied—

- (a) in a case to which paragraph (a) of the last preceding sub-section applies—that the person who has refused to consent to the marriage has refused his consent unreasonably ; or
- (b) in a case to which paragraph (b) of that sub-section applies—that, having proper regard for the welfare of the minor, it would be unreasonable for him to refuse his consent to the proposed marriage,

may give his consent to the marriage in place of the consent of the person in relation to whose consent the application is made.

(3.) Where a magistrate to whom an application is made under this section is satisfied that the matter could more properly be dealt with by a magistrate sitting at a place nearer the place where the applicant ordinarily resides, he may, in his discretion, refuse to proceed with the hearing of the application, but such a refusal shall not, for the purposes of sections seventeen and nineteen of this Act, be deemed to be a refusal of the application.

(4.) Where a magistrate grants an application under sub-section (1.) of this section, he shall not issue his consent in writing to the marriage before the expiration of the time prescribed for the purposes of the next succeeding section and if, within that time, a request for a re-hearing is made under that section, he shall not issue his consent unless that request is withdrawn.

(5.) Where a magistrate gives his consent to the marriage of a minor in place of the consent of a person who has refused to consent to the marriage, the magistrate may also, upon application by the minor, give his consent in place of the consent of any other

person if he is satisfied that it is impracticable, or that it is impracticable without delay that would, in all the circumstances of the case, be unreasonable, to ascertain the views of that person with respect to the proposed marriage.

(6.) For the purposes of the last preceding sub-section, the fact that a person does not reside in, or is absent from, Australia shall not of itself be deemed to make it impracticable to ascertain the views of that person.

17.—(1.) Where—

(a) an application under sub-section (1.) or (5.) of the last preceding section is refused; or

(b) an application under sub-section (1.) of that section is granted,

the applicant or the person in relation to whose consent the application was made, as the case requires, may, in the prescribed manner and within the prescribed time, request that the application be re-heard by a Judge of the State or Territory in which it was heard, and a Judge of that State or Territory may re-hear the application accordingly.

(2.) The provisions of sub-sections (2.), (5.) and (6.) of the last preceding section apply, so far as they are applicable, in relation to the re-hearing of an application made under that section and, for the purpose of such a re-hearing, references in those provisions to the magistrate dealing with an application shall be read as references to the Judge re-hearing the application.

18.—(1.) In conducting an inquiry under this Part, a Judge or a magistrate—

(a) is not bound by the rules of evidence; and

(b) shall give to the applicant and, so far as is reasonably practicable, any person whose consent to the marriage of the applicant is required by this Act, an opportunity of being heard.

(2.) An inquiry by a Judge or a magistrate under this Part shall be held in private.

(3.) An applicant or other person who is given an opportunity of being heard at an inquiry under this Part may be represented by a barrister or solicitor.

19.—(1.) Where, in relation to a proposed marriage of a minor to a particular person—

(a) an application under section fifteen of this Act has been refused by a prescribed authority;

(b) an application under section sixteen of this Act has been refused by a magistrate or a Judge; or

Re-hearing of applications by a Judge.

Provisions applicable to inquiries by Judge or magistrate.

Restrictions on applications under sections 12, 15 and 16.

(c) an application under section twelve of this Act has been refused by a magistrate or a Judge,

a further application under the same section by the same person in relation to the proposed marriage shall not be considered by any prescribed authority, magistrate or Judge within six months after the refusal of the application, unless the applicant satisfies the prescribed authority, magistrate or Judge to whom the further application is made that there has been a substantial change in the relevant facts or circumstances since the refusal of the former application.

(2.) The fact that an application is heard or dealt with in contravention of the last preceding sub-section does not affect the validity of an order made, or the effectiveness of a consent given, upon the application or the re-hearing of the application or make ineffective any dispensation with a consent granted on the application.

Effect of consent of magistrate or Judge.

20. Subject to the next succeeding section, where a magistrate or a Judge gives his consent to the marriage of a minor in place of the consent of another person, his consent operates, for the purposes of this Act, as the consent of that other person.

Consent by magistrate or Judge and dispensation with consent to be ineffective after three months, &c.

21.—(1.) A consent to a marriage given by a magistrate or a Judge in place of the consent of another person ceases to have effect if the marriage does not take place within three months after the date of the consent.

(2.) A dispensation with the consent of a person to a marriage ceases to have effect if—

- (a) the marriage does not take place within three months after the date of the dispensation; or
- (b) before the marriage takes place, the person whose consent has been dispensed with notifies, by writing under his hand or in any other prescribed manner, the person to whom notice of the intended marriage has been given under this Act or, in the case of an intended marriage under Division 3 of Part V. of this Act, the chaplain by whom or in whose presence the marriage is intended to be solemnized, that he does not consent to the marriage.

(3.) Where a consent by a magistrate or a Judge or a dispensation with the consent of a person by a prescribed authority has ceased to have effect, the provisions of this Act apply as if the consent had not been given or dispensed with, as the case may be.

PART III.—APPLICATION OF PROHIBITED DEGREES OF
CONSANGUINITY AND AFFINITY.

22.—(1.) Notwithstanding sub-section (2.) of section twenty-two or sub-section (3.) of section twenty-five of the *Matrimonial Causes Act 1959*, the provisions of sections eighteen, nineteen and twenty of that Act relating to the prohibited degrees of consanguinity and affinity and the Second Schedule to that Act apply in relation to marriages in Australia, other than marriages to which Division 3 of Part IV. of this Act applies, and to marriages under Part V. of this Act, wherever the parties are domiciled or intend to make their home.

Prohibited degrees to apply to all marriages in Australia, &c.

(2.) Nothing in the last preceding sub-section shall be taken to prevent the application of any common law rule of private international law in relation to a marriage or purported marriage that takes place outside Australia otherwise than under Part V. of this Act.

23.—(1.) In this section, “ adopted child ” means—

- (a) a person adopted under a law of a State or of any Territory of the Commonwealth; or
- (b) a person adopted under the law of any other place, if the adoption of the person would be recognized as valid under the law of the Australian Capital Territory,

Application of prohibited degrees in respect of relationships by adoption.

and “ adopted ” has a corresponding meaning.

(2.) Subject to this section, sections eighteen and nineteen of the *Matrimonial Causes Act 1959* and the Second Schedule to that Act have effect as if any relationship of consanguinity specified in that Schedule included a relationship traced through, or to, a person who is or was an adopted child and, for that purpose, the relationship between an adopted child and his adoptive parent, or each of his adoptive parents, shall be deemed to be or to have been the natural relationship of child and parent.

(3.) Nothing in the last preceding sub-section makes it lawful for a person to marry a person whom the first-mentioned person could not lawfully have married if that sub-section had not been enacted.

(4.) For the purposes of this section—

- (a) a person who has at any time been adopted by another person shall be deemed to remain the adopted child of that other person notwithstanding that any order by which the adoption was effected has been annulled, cancelled or discharged or that the adoption has for any other reason ceased to be effective; and
- (b) a person who has been adopted on more than one occasion shall be deemed to be the adopted child of each person by whom he has been adopted.

Marriage of persons within prohibited degrees by reason of section 23.

24.—(1.) Where two persons who are within the prohibited degrees of consanguinity set out in the Second Schedule to the *Matrimonial Causes Act 1959* by reason only of the operation of the last preceding section wish to marry one another, they may apply in writing to a Judge for permission to do so.

(2.) Subject to the next succeeding sub-section, if the Judge is satisfied that the circumstances of the particular case are so exceptional as to justify the granting of the permission sought, he may, by order, permit the applicants to marry one another.

(3.) This section does not authorize the granting of permission to marry to persons the relationship between whom is, by reason of the operation of the last preceding section, that of parent and child or brother and sister.

(4.) Where persons marry in pursuance of permission granted under this section, the validity of their marriage is not affected by the fact that they are within the prohibited degrees of consanguinity by reason of the operation of the last preceding section.

(5.) In this section, “ Judge ” means—

- (a) a Judge of the Supreme Court of a State in respect of whom an appropriate arrangement in force under section nine of this Act is applicable; or
- (b) a Judge of the Supreme Court of a Territory.

PART IV.—SOLEMNIZATION OF MARRIAGES IN AUSTRALIA.

Division 1.—Authorization of Ministers of Religion and other Persons as Celebrants.

Interpretation.

25.—(1.) In this Division—

- (a) a reference to a Registrar shall be read as a reference to a Registrar of Ministers of Religion; and
- (b) a reference to a register shall be read as a reference to a register kept for the purposes of this Division.

(2.) For the purposes of this Division, a person who is serving outside Australia as a member of the Defence Force and was, immediately before he became a member of the Defence Force, ordinarily resident in a State or Territory shall be deemed, while he is so serving, to be ordinarily resident in that State or Territory.

Recognized denominations.

26. The Governor-General may, by Proclamation, declare a religious body or a religious organization to be a recognized denomination for the purposes of this Act.

Registers of ministers of religion.

27.—(1.) For the purposes of this Division, there shall be, for each State and Territory, a Registrar of Ministers of Religion and a Deputy Registrar of Ministers of Religion, who shall be appointed by the Attorney-General.

(2.) In the event of the absence, through illness or otherwise, of the Registrar, or of a vacancy in the office of the Registrar, the Deputy Registrar has all the powers, and shall perform all the duties and functions, of the Registrar during the absence or vacancy.

(3.) Unless and until another person is appointed to be the Registrar of Ministers of Religion for a particular Territory, the person having, under the law of that Territory, the function of maintaining a register of all marriages solemnized in that Territory shall be the Registrar for that Territory.

(4.) The Registrar for a State or Territory shall keep a register, in such form as the Attorney-General determines, of ministers of religion ordinarily resident in the State or Territory who are entitled to registration under this Division.

28.—(1.) The Governor-General may make arrangements with the Governor of a State for the transfer to the Commonwealth of any register of persons authorized to solemnize marriages in that State kept by an officer of that State immediately before the commencement of this Act.

Transfer of
State registers.

(2.) A copy of each arrangement made under this section shall be published in the *Gazette*.

(3.) A register of a State transferred to the Commonwealth in pursuance of an arrangement made under this section, and a register of persons authorized to solemnize marriages kept in relation to a Territory immediately before the commencement of this Act, shall be deemed to form part of the register kept for that State or that Territory, as the case may be, for the purposes of this Division.

(4.) A person registered in a register so transferred or kept who is, immediately after the commencement of this Act, a minister of religion of a recognized denomination shall be deemed to be so registered in pursuance of this Division, and the Registrar by whom the register is kept shall remove from that register the name of any other person.

29. Subject to this Division, a person is entitled to registration under this Division if—

Qualifications
for registration
under this
Division.

- (a) he is a minister of religion of a recognized denomination;
- (b) he is nominated for registration under this Division by that denomination;
- (c) he is ordinarily resident in Australia; and
- (d) he has attained the age of twenty-one years.

Registrar to
register
applicant.

30.—(1.) Subject to this Division, the Registrar for a State or Territory shall, on application in accordance with the regulations, by a person ordinarily resident in that State or Territory who is entitled to registration under this Division, register that person in the register kept by him.

(2.) The particulars set out in an application for registration under this Division shall be verified by the applicant by statutory declaration.

Applicant may
be refused
registration
in certain
circumstances.

31.—(1.) A Registrar to whom an application for registration under this Division is made may refuse to register the applicant if, in the opinion of the Registrar—

- (a) there are already registered under this Division sufficient ministers of religion of the denomination to which the applicant belongs to meet the needs of the denomination in the locality in which the applicant resides;
- (b) the applicant is not a fit and proper person to solemnize marriages; or
- (c) the applicant is unlikely to devote a substantial part of his time to the performance of functions generally performed by a minister of religion.

(2.) A minister of religion who is not a British subject shall not be registered under this Division except with the written approval of the Attorney-General.

(3.) An approval by the Attorney-General under the last preceding sub-section may be subject to such conditions as the Attorney-General thinks fit and, in such a case, the person in relation to whom the approval is given ceases to be entitled to registration under this Division if he fails to comply with any of those conditions.

Effect of
registration.

32. A minister of religion who is registered under this Division in any register may solemnize marriages at any place in Australia.

Removal from
register.

33.—(1.) Subject to this section, a Registrar shall remove the name of a person from the register kept by him if he is satisfied that—

- (a) that person has requested that his name be so removed;
- (b) that person has died;
- (c) the denomination by which that person was nominated for registration, or in respect of which that person is registered, no longer desires that he be registered under this Division or has ceased to be a recognized denomination;

(*d*) that person—

- (i) has been guilty of such contraventions of this Act or the regulations as to show him not to be a fit and proper person to be registered under this Division;
- (ii) has been making a business of solemnizing marriages for the purpose of profit or gain; or
- (iii) is not a fit and proper person to solemnize marriages; or

(*e*) that person is, for any other reason, not entitled to registration under this Division.

(2.) A Registrar shall not remove the name of a person from a register under this section on a ground specified in paragraph (*d*) or (*e*) of the last preceding sub-section unless he has, in accordance with the regulations, first given to him at least twenty-one days' notice in writing of his intention to do so on that ground.

(3.) The Registrar shall, in the notice, call upon the person to whom it is given to show cause, within the period stated in the notice, why his name should not be removed from the register and shall consider any representations made by him within that period.

(4.) Where notice is given to a person under sub-section (2.) of this section, that person shall not solemnize a marriage unless and until—

- (*a*) he is notified by the Registrar that the Registrar has decided not to remove his name from the register; or
- (*b*) the Attorney-General has, in pursuance of the next succeeding section, directed that he be restored to the register.

34.—(1.) Where a Registrar—

- (*a*) refuses to register a person who has applied for registration under this Division; or
- (*b*) removes the name of a person from a register in pursuance of the last preceding section,

that person may, within twenty-one days after the refusal or removal, as the case may be, or within such further time as the Attorney-General allows, by writing under his hand, request the Attorney-General to review the refusal or removal.

(2.) The Attorney-General shall consider the matter and, after making such investigations as he thinks proper, may confirm the refusal or removal or direct that the person concerned be registered or restored to the register, as the case requires.

**Review of
refusal to
register or
removal from
register.**

Change of
address, &c.,
to be notified.

35.—(1.) Where a person registered under this Division—

(a) changes his name, his address or his designation; or

(b) ceases to exercise, or ceases to be entitled to exercise, the functions of a minister of religion of the denomination by which he was nominated for registration or in respect of which he is registered,

he shall, within thirty days thereafter, notify the Registrar by whom the register in which he is registered is kept of that fact in accordance with the regulations.

(2.) The Registrar may, upon receiving notification of a change of name, address or designation under the last preceding sub-section or if he is otherwise satisfied that the particulars shown in the register in respect of a person are not correct, amend the register accordingly.

Transfer to
another State,
&c.

36.—(1.) Where a person whose name is included in the register for a particular State or Territory is ordinarily resident in another State or Territory, the Registrar by whom the register is kept shall, subject to this section, remove the name of that person from that register.

(2.) Where the name of a person referred to in the last preceding sub-section is not included in the register for the State or Territory in which he is ordinarily resident, the Registrar for that State or Territory may enter the name of that person in the register kept by him, and the name of that person shall not be removed from a register by virtue of the last preceding sub-section unless and until it has been so entered.

Furnishing of
information by
recognized
denominations.

37. The regulations may make provision for, and in relation to, the furnishing to Registrars by each recognized denomination of—

(a) information as to matters affecting the right to registration under this Division of persons who are so registered as ministers of religion of that denomination; and

(b) an annual list of persons registered under this Division as ministers of religion of that denomination who are exercising the functions of a minister of religion of that denomination.

Registrars to
furnish
information
to Attorney-
General.

38. Each Registrar shall, not later than the fourteenth day of each month, furnish to the Secretary to the Attorney-General's Department—

(a) a list of ministers of religion registered by him under this Division during the preceding month, showing the full name, designation, residential or postal address and religious denomination of each minister; and

(b) particulars of any other alterations to the register kept by him under this Division made during the preceding month.

39.—(1.) A person who, under the law of a State or Territory, has the function of registering marriages solemnized in the State or Territory or a part of the State or Territory may solemnize marriages in that State or Territory or in that part of the State or Territory, as the case may be.

Authorization
of other
celebrants.

(2.) The Attorney-General may, by instrument in writing, authorize other officers of a State or Territory or other suitable persons to solemnize marriages.

(3.) An authorization under the last preceding sub-section—

(a) may authorize a person to solemnize marriages at any place in Australia or only in the part or parts of Australia specified in the instrument of authorization; and

(b) is subject to such conditions (if any) as are specified in the instrument.

Division 2.—Marriages by Authorized Celebrants.

40.—(1.) Subject to the next succeeding sub-section, this Division applies to and in relation to all marriages solemnized, or intended to be solemnized, in Australia.

Application of
Division.

(2.) This Division does not apply to or in relation to marriages to which Division 3 of this Part applies.

41. A marriage shall be solemnized by or in the presence of an authorized celebrant who is authorized to solemnize marriages at the place where the marriage takes place.

Marriages to
be solemnized
by authorized
celebrant.

42.—(1.) Subject to this section, a marriage shall not be solemnized unless—

Notice to be
given and
declaration
made.

(a) notice in writing of the intended marriage has been given in accordance with this section and has been received by the authorized celebrant solemnizing the marriage not earlier than the ninetieth day before the date of the marriage and not later than the seventh day before the date of the marriage;

(b) there has been produced to that authorized celebrant, in respect of each of the parties—

(i) an official certificate, or an official extract of an entry in an official register, showing the date and place of birth of the party; or

(ii) a statutory declaration made by the party or a parent of the party stating that, for reasons specified in the declaration, it is impracticable to obtain such a certificate or extract and stating, to the best of the declarant's knowledge and belief and as accurately as the declarant has been able to ascertain, when and where the party was born; and

- (c) each of the parties has made and subscribed before that authorized celebrant a declaration, in accordance with the prescribed form, as to—
- (i) the party's conjugal status;
 - (ii) the party's belief that there is no legal impediment to the marriage; and
 - (iii) such other matters as are prescribed.
- (2.) A notice under the last preceding sub-section—
- (a) shall be in accordance with the prescribed form and contain such particulars in relation to the parties as are indicated in the prescribed form; and
 - (b) subject to the next succeeding sub-section, shall have been signed by each of the parties in the presence of an authorized celebrant, a Commissioner for Declarations under the *Statutory Declarations Act 1959* or a justice of the peace.
- (3.) Where the signature of a party to an intended marriage cannot conveniently be obtained at the time when it is desired to give notice under this section, a notice duly signed by the other party and otherwise complying with the provisions of this section shall, if it is signed by the first-mentioned party in the presence of an authorized celebrant before the marriage is solemnized, be deemed to have been a sufficient notice.
- (4.) Where a party to an intended marriage is unable, after reasonable inquiry, to ascertain all of the particulars in relation to that party required to be contained in a notice under this section, the failure to include in the notice such of those particulars as the party is unable to ascertain does not make the notice ineffective for the purposes of this section if, at any time before the marriage is solemnized, that party furnishes to the authorized celebrant solemnizing the marriage a statutory declaration as to his inability to ascertain the particulars not included in the notice and the reason for that inability.
- (5.) A prescribed authority may, if he is satisfied that the circumstances of the particular case justify his so doing—
- (a) authorize an authorized celebrant to solemnize a marriage; or
 - (b) where he is also an authorized celebrant and there is no other authorized celebrant suitable to the parties conveniently available, solemnize a marriage himself, notwithstanding that the notice required by sub-section (1.) of this section has been received later than the seventh day before the date of the marriage.

(6.) Where, by reason of the death, absence or illness of an authorized celebrant to whom a notice of intention to marry has been given, or for any other reason, it is impracticable for that person to solemnize the marriage, the marriage may be solemnized by any authorized celebrant who has possession of the notice.

(7.) The declarations of the parties required by sub-section (1.) of this section shall both be written on the one paper and on the same side of that paper.

(8.) An authorized celebrant shall not solemnize a marriage—

(a) unless he has satisfied himself that the parties are the parties referred to in the notice given under this section in relation to the marriage; or

(b) if he has reason to believe that—

(i) a notice given under this section; or

(ii) a declaration made and subscribed under this section, or a statutory declaration made for the purposes of this section,

in relation to the marriage, contains a false statement or an error or is defective.

(9.) An authorized celebrant may permit an error in a notice under this section to be corrected in his presence by either of the parties at any time before the marriage to which it relates has been solemnized and may treat the corrected notice as having been originally given in its corrected form.

(10.) Where the declaration made by a party under sub-section (1.) of this section states that that party is a divorced person or a widow or widower, an authorized celebrant shall not solemnize the marriage unless there is produced to him evidence of that party's divorce, or of the death of that party's spouse, as the case requires.

43. A marriage may be solemnized on any day, at any time and at any place.

Marriage may be solemnized on any day, &c.

44. A marriage shall not be solemnized unless at least two persons who are, or appear to the person solemnizing the marriage to be, over the age of eighteen years are present as witnesses.

Witnesses.

45.—(1.) Where a marriage is solemnized by or in the presence of an authorized celebrant, being a minister of religion, it may be solemnized according to any form and ceremony recognized as sufficient for the purpose by the religious body or organization of which he is a minister.

Form of ceremony.

(2.) Where a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion, it is sufficient if each of the parties says to the other, in the presence of the authorized celebrant and the witnesses, the words—

“ I call upon the persons here present to witness that I, A.B. (or C.D.), take thee, C.D. (or A.B.), to be my lawful wedded wife (or husband) ”,

or words to that effect.

(3.) Where a marriage has been solemnized by or in the presence of an authorized celebrant, a certificate of the marriage prepared and signed in accordance with section fifty of this Act is conclusive evidence that the marriage was solemnized in accordance with this section.

(4.) Nothing in the last preceding sub-section makes a certificate conclusive—

(a) where the fact that the marriage ceremony took place is in issue—as to that fact; or

(b) where the identity of a party to the marriage is in issue—as to the identity of that party.

Certain authorized celebrants to explain nature of marriage relationship.

46.—(1.) Subject to the next succeeding sub-section, before a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion of a recognized denomination, the authorized celebrant shall say to the parties, in the presence of the witnesses, the words—

“ I am duly authorized by law to solemnize marriages according to law.

“ Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn and binding nature of the relationship into which you are now about to enter.

“ Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”,

or words to that effect.

(2.) Where, in the case of a person authorized under sub-section (2.) of section thirty-nine of this Act to solemnize marriages, the Attorney-General is satisfied that the form of ceremony to be used by that person sufficiently states the nature and obligations of marriage, he may, either by the instrument by which that person is so authorized or by a subsequent instrument, exempt him from compliance with the last preceding sub-section.

47. Nothing in this Part—

- (a) imposes an obligation on an authorized celebrant, being a minister of religion, to solemnize any marriage; or
- (b) prevents such an authorized celebrant from making it a condition of his solemnizing a marriage that—
 - (i) longer notice of intention to marry than that required by this Act is given; or
 - (ii) requirements additional to those provided by this Act are observed.

Ministers of religion not bound to solemnize marriage, &c.

48.—(1.) Subject to this section, a marriage solemnized otherwise than in accordance with the preceding provisions of this Division is not a valid marriage.

Certain marriages not solemnized in accordance with this Division to be invalid.

(2.) A marriage is not invalid by reason of all or any of the following:—

- (a) failure to give the notice required by section forty-two of this Act, or a false statement, defect or error in such a notice;
- (b) failure of the parties, or either of them, to make or subscribe a declaration as required by section forty-two of this Act, or a false statement, defect or error in such a declaration;
- (c) failure to produce to the authorized celebrant a certificate or extract of an entry or a statutory declaration as required by section forty-two of this Act, or a false statement, defect or error in such a statutory declaration;
- (d) failure to comply with any other requirement of section forty-two of this Act, or any contravention of that section;
- (e) failure to comply with the requirements of section forty-four or forty-six of this Act;
- (f) failure to comply with the requirements of section thirteen of this Act.

(3.) A marriage is not invalid by reason that the person solemnizing it was not authorized by this Act to do so, if either party to the marriage, at the time the marriage was solemnized, believed that that person was lawfully authorized to solemnize it, and in such a case the form and ceremony of the marriage shall be deemed to have been sufficient if they were such as to show an intention on the part of each of the parties to become thereby the lawfully wedded spouse of the other.

49. An authorized celebrant to whom a consent, dispensation with consent or statutory declaration is produced under this Act shall retain it in his possession until he deals with it in accordance with the next succeeding section.

Authorized celebrant to retain consents, statutory declarations, &c.

Marriage
certificates.

50.—(1.) Where an authorized celebrant solemnizes a marriage, he shall—

- (a) prepare a certificate of the marriage, in accordance with the prescribed form, for the purpose of issue to the parties to the marriage; and
- (b) prepare two official certificates of the marriage in accordance with the prescribed form.

(2.) Immediately after the solemnization of the marriage, the authorized celebrant, each of the parties to the marriage and two witnesses of the marriage who are, or appear to the authorized celebrant to be, over the age of eighteen years shall sign each of the certificates so prepared.

(3.) One of the official certificates shall be on the reverse side of the paper bearing the declarations made by the parties under section forty-two of this Act.

(4.) The authorized celebrant shall—

- (a) hand the certificate referred to in paragraph (a) of sub-section (1.) of this section to one of the parties to the marriage on behalf of the parties;
- (b) forward the official certificate referred to in the last preceding sub-section, together with the notice under section forty-two of this Act and any statutory declarations, consents and dispensations with consents relating to the marriage that are in his possession, to the appropriate registering authority of a State or Territory ascertained in accordance with the regulations; and
- (c) retain the other official certificate and deal with it in accordance with the regulations.

(5.) Where the authorized celebrant dies without having prepared and signed the certificates of the marriage, or where by reason of other special circumstances the Attorney-General thinks it necessary to do so, the Attorney-General may, if he is satisfied that the marriage was duly solemnized, prepare and sign the certificates with such modifications as are appropriate.

(6.) A certificate prepared and signed by the Attorney-General under the last preceding sub-section has the same force and effect as if it had been prepared and signed, in accordance with this section, by the authorized celebrant.

(7.) The regulations may make provision for and in relation to the furnishing of a substitute certificate in the event of the loss or destruction of a certificate of a marriage previously forwarded in pursuance of this section.

51.—(1.) Where an authorized officer is satisfied, by statutory declaration or otherwise, that any particular in a certificate of marriage prepared and signed under the last preceding section is incorrect, he may—

Correction of errors in marriage certificates.

- (a) in the case of a certificate that has been handed to a party to the marriage or retained by the authorized celebrant—correct the certificate; and
- (b) in the case of a certificate that has been forwarded to a registering authority—certify to that authority that a specified correction is necessary.

(2.) For the purposes of exercising his powers under paragraph (a) of the last preceding sub-section in relation to a certificate, an authorized officer may, by notice in writing served on a party to the marriage, or the authorized celebrant, as the case requires, require the party or the authorized celebrant to produce or forward the certificate to him within a period (not being less than seven days from the date of service of the notice) specified in the notice.

(3.) A notice referred to in the last preceding sub-section may be served by post.

(4.) In this section, “authorized officer” means a person authorized by the Attorney-General to perform the functions of an authorized officer under this section.

Division 3.—Marriages by Foreign Diplomatic or Consular Officers.

52. In this Division, unless the contrary intention appears—

Definitions.

“diplomatic or consular officer”, in relation to an overseas country, means a person recognized by the Government of the Commonwealth as a diplomatic or consular representative of that overseas country in Australia;

“proclaimed overseas country” means an overseas country in respect of which a Proclamation under section fifty-four of this Act is in force;

“the Registrar” means the Registrar of Foreign Marriages.

53. This Division applies to marriages, in accordance with the law or custom of a proclaimed overseas country, between parties of whom one at least possesses the nationality of that country.

Application of Division.

54. Where the Governor-General is satisfied, in relation to an overseas country, that—

- (a) the law or custom of that country authorizes the solemnization by or in the presence of diplomatic officers of that country, or consular officers of that country, or both, of marriages outside that country; and

Governor-General may declare countries to be proclaimed overseas countries.

- (b) the law or custom of that country permits marriages to be solemnized in that country under Division 2 of Part V. of this Act,

the Governor-General may, by Proclamation, declare that country to be a proclaimed overseas country for the purposes of this Division.

Solemnization of marriages in Australia by foreign diplomatic or consular officer.

55.—(1.) Nothing in this Act prevents the solemnization in Australia of a marriage to which this Division applies by or in the presence of a diplomatic or consular officer of a proclaimed overseas country, if—

- (a) neither of the parties is an Australian citizen or an Australian protected person;
- (b) each of the parties is of marriageable age;
- (c) neither of the parties is already married to a person other than the other party to the marriage; and
- (d) the parties are not within the prohibited degrees of consanguinity set out in the Second Schedule to the *Matrimonial Causes Act* 1959, as affected by section twenty-three of this Act.

(2.) In this section, “Australian protected person” means a person who is, for the purposes of the *Nationality and Citizenship Act* 1948–1960, under the protection of the Australian Government.

Recognition of marriages.

56. A marriage solemnized in Australia by or in the presence of a diplomatic or consular officer of a proclaimed overseas country, being a marriage to which the last preceding section was applicable, shall be recognized as valid in Australia if—

- (a) the marriage is recognized as a valid marriage by the law or custom of the overseas country; and
- (b) the marriage has been registered under this Division.

Registrar and Deputy Registrar of Foreign Marriages.

57.—(1.) For the purposes of this Division, there shall be a Registrar of Foreign Marriages, who shall be appointed by the Attorney-General.

(2.) The Registrar shall have a seal, which shall be in such form as the Attorney-General determines.

(3.) The Attorney-General may appoint a person to be Deputy Registrar of Foreign Marriages and, in the event of the absence, through illness or otherwise, of the Registrar, or of a vacancy in the office of Registrar, the Deputy Registrar has all the powers, and shall perform all the duties and functions, of the Registrar during the absence or vacancy.

(4.) The Deputy Registrar appointed under this section may, during any such absence, or vacancy in the office, of the Registrar, certify copies of entries, or extracts of entries, in the Register of

Foreign Marriages Solemnized in Australia under his hand and the seal of the Registrar, and a copy or extract so certified has the same force and effect as if it had been certified by the Registrar under his hand and seal.

58.—(1.) The Registrar shall keep a register, to be called the Register of Foreign Marriages Solemnized in Australia, in such form as the Attorney-General directs.

Register
Foreign
Marriages
Solemnized in
Australia.

(2.) The Registrar shall register in the Register every marriage notified to him that he is satisfied—

- (a) is a marriage to which section fifty-five of this Act was applicable; and
- (b) has been solemnized in Australia by or in the presence of a diplomatic or consular officer of a proclaimed overseas country who was competent to solemnize the marriage.

(3.) The Registrar shall keep an index of the entries in the Register.

59.—(1.) Subject to payment of the prescribed fee, a person may, upon satisfying the Registrar that he has good reason for so doing, cause a search to be made for an entry in the Register of Foreign Marriages Solemnized in Australia and receive a copy of the entry, or an extract of the entry, certified by the Registrar under his hand and seal to be a copy of the entry or an extract of the entry, as the case may be.

Searches and
certified copies.

(2.) A copy of an entry in the Register certified in accordance with the last preceding sub-section is, for all purposes, evidence of the marriage recorded in the entry.

PART V.—SOLEMNIZATION OF MARRIAGES OVERSEAS.

Division 1.—Administration.

60. In this Part, “the Registrar” means the Registrar of Overseas Marriages.

Definition.

61.—(1.) For the purposes of this Part, there shall be a Registrar of Overseas Marriages, who shall be appointed by the Attorney-General.

Registrar of
Overseas
Marriages.

(2.) The Registrar shall have a seal, which shall be in such form as the Attorney-General determines.

(3.) The Attorney-General may appoint a person to be Deputy Registrar of Overseas Marriages and, in the event of the absence, through illness or otherwise, of the Registrar, or of a vacancy in the office of Registrar, the Deputy Registrar of Overseas Marriages has all the powers, and shall perform all the duties and functions, of the Registrar during the absence or vacancy.

(4.) The Deputy Registrar appointed under this section may, during any such absence, or vacancy in the office, of the Registrar—

- (a) certify copies of entries, or extracts of entries, in the Register of Overseas Marriages;
- (b) issue certificates under sub-section (3.) of section sixty-four of this Act; and
- (c) certify documents under sub-section (2.) of section eighty-five of this Act,

under his hand and the seal of the Registrar, and a copy, extract or document so certified, or a certificate so issued, has the same force and effect as if it had been certified or issued by the Registrar under his hand and seal.

(5.) The persons holding office immediately before the commencement of this Act as Registrar of Overseas Marriages and Deputy Registrar of Overseas Marriages under the *Marriage (Overseas) Act 1955–1958* shall be deemed to have been appointed Registrar of Overseas Marriages and Deputy Registrar of Overseas Marriages, respectively, under this section.

Appointment of
marriage
officers.

62. The Attorney-General may, by writing under his hand, appoint as a marriage officer—

- (a) a person appointed to hold or act in any of the following offices (being an office of the Commonwealth) in an overseas country:—
 - (i) Ambassador;
 - (ii) High Commissioner;
 - (iii) Counsellor or Secretary at an Embassy, High Commissioner's Office, Legation or other post; and
 - (iv) Consul; and
- (b) any other person qualified under the regulations to be appointed as a marriage officer.

Register of
Overseas
Marriages.

63.—(1.) The Registrar shall keep a register, to be called the Register of Overseas Marriages, in such form as the Attorney-General directs.

(2.) The Register of Overseas Marriages that was kept under section eight of the *Marriage (Overseas) Act 1955–1958* shall be deemed to form part of the Register kept under this section.

(3.) The Registrar shall register in the Register all marriages which by this Part he is required to register.

(4.) The Registrar may register in the Register—

- (a) a marriage solemnized under the *Marriage (Overseas) Act 1955–1958* that has not been registered under that Act; or

(b) a marriage, not being a marriage that has been registered under the *Marriage (Overseas) Act 1955–1958*, that was solemnized before the commencement of this Act and in respect of which a certificate has been forwarded—

- (i) in pursuance of section twenty-five of the *Marriage (Overseas) Act 1955–1958*; or
- (ii) in pursuance of section eighty-four of this Act.

(5.) The Registrar shall keep an index of the entries in the Register.

64.—(1.) Subject to payment of the prescribed fee, a person may, upon satisfying the Registrar that he has good reason for so doing, cause a search to be made for an entry in the Register and receive a copy of the entry, or an extract of the entry, certified by the Registrar under his hand and seal to be a copy of the entry or an extract of the entry, as the case may be.

Searches and certified copies.

(2.) A copy of an entry in the Register certified in accordance with the last preceding sub-section is, for all purposes, evidence of the marriage recorded in the entry.

(3.) Where, upon a search made under this section, the Registrar finds that there is no entry in the Register of a marriage to which the search relates, he may issue a certificate to that effect under his hand and seal.

(4.) A certificate under the last preceding sub-section is evidence of the facts stated in the certificate.

Division 2.—Marriages by Marriage Officers.

65. Subject to this Part, a marriage between parties of whom one at least is an Australian citizen may be solemnized in an overseas country by or in the presence of a marriage officer.

Solemnization of overseas marriages.

66.—(1.) Subject to this section, a marriage shall not be solemnized by or in the presence of a marriage officer under this Division unless—

Notice of marriage.

(a) notice in writing of the intended marriage has been given in accordance with this section and has been received by the marriage officer solemnizing the marriage—

- (i) where both parties to the intended marriage are British subjects—not later than the seventh day before the date of the intended marriage; and
- (ii) in any other case—not later than the fourteenth day before the date of the intended marriage; and

- (b) there has been produced to that marriage officer, in respect of each of the parties—
- (i) an official certificate, or an official extract of an entry in an official register, showing the date and place of birth of the party; or
 - (ii) a statutory declaration made by the party or a parent of the party stating that, for reasons specified in the declaration, it is impracticable to obtain such a certificate and stating, to the best of the declarant's knowledge and belief and as accurately as the declarant has been able to ascertain, when and where the party was born.
- (2.) A notice under the last preceding sub-section—
- (a) shall be in accordance with the prescribed form and contain such particulars in relation to the parties as are indicated in the prescribed form;
 - (b) shall have been signed by one of the parties, being an Australian citizen, before it is given; and
 - (c) shall, before the marriage to which it relates is solemnized, be signed by each of the parties in the presence of a marriage officer.
- (3.) Where a party to an intended marriage is unable, after reasonable inquiry, to ascertain all of the particulars in relation to that party required to be contained in a notice under this section, a failure to include in the notice such of those particulars as the party is unable to ascertain does not make the notice ineffective for the purposes of this section if, at any time before the marriage is solemnized, that party furnishes to the marriage officer solemnizing the marriage a statutory declaration as to his inability to ascertain the particulars not included in the notice and the reason for that inability.
- (4.) A marriage officer may, if he is satisfied that the circumstances of the particular case justify his so doing, solemnize a marriage notwithstanding that the notice under this section has been received later than the seventh day or the fourteenth day, as the case may be, before the date of the marriage.
- (5.) Where, by reason of the death, absence or illness of the marriage officer to whom a notice of intention to marry has been given, or for any other reason, it is impracticable for that officer to solemnize the marriage, the marriage may be solemnized by any marriage officer who has possession of the notice.
- (6.) A marriage officer to whom notice of an intended marriage is given under this section shall, if one of the parties to the intended marriage is not a British subject, post up a copy of

the notice in a conspicuous place in his office and keep it so posted up until the intended marriage is solemnized or the notice becomes void, whichever first occurs.

(7.) A notice given under this section and a copy of such a notice posted up in the office of a marriage officer under the last preceding sub-section may be inspected, without fee, by any person at any reasonable time before the intended marriage to which the notice relates is solemnized or the notice becomes void, whichever first occurs.

(8.) Where a party to an intended marriage is stated in a notice under this section to be a divorced person or a widow or widower, a marriage officer shall not solemnize the marriage unless there is produced to him evidence of that party's divorce, or of the death of that party's spouse, as the case requires.

(9.) A marriage officer shall not solemnize a marriage if he has reason to believe that a notice given under this section, or a statutory declaration made for the purposes of this section, in respect of the marriage contains a false statement or an error or is defective.

(10.) A marriage officer may permit an error in a notice under this section to be corrected in his presence by either of the parties at any time before the marriage to which the notice relates has been solemnized and may treat the corrected notice as having been originally given in its corrected form.

67.—(1.) Subject to the next succeeding sub-section, a notice of an intended marriage given to a marriage officer under the last preceding section becomes void at the expiration of a period of three months from the date on which the notice was received.

Notice to become void after three months.

(2.) Where, within the period of three months referred to in the last preceding sub-section, a caveat against the solemnization of the marriage has been entered under the next succeeding section, the notice becomes void at the expiration of a period of three months from the date on which the caveat was entered.

(3.) A marriage officer shall not solemnize a marriage in pursuance of a notice that has become void.

68.—(1.) Where notice of an intended marriage has been given to a marriage officer under section sixty-six of this Act and one of the parties to the intended marriage is not a British subject, a person may, on payment of the prescribed fee, enter with the marriage officer a caveat against the solemnization of the marriage.

Caveat where one of the parties is not a British subject.

(2.) A caveat under the last preceding sub-section shall—

- (a) be in accordance with the prescribed form;
- (b) be signed by or on behalf of the person entering it; and
- (c) state the ground of objection to the solemnization of the marriage.

(3.) Where a caveat against the solemnization of an intended marriage is duly entered with a marriage officer, the marriage shall not be solemnized by the marriage officer unless—

- (a) the marriage officer, having inquired into the ground of objection specified in the caveat, is satisfied that the caveat ought not to prevent the solemnization of the marriage; or
- (b) the caveat has been withdrawn by the person who entered it.

(4.) In case of doubt, the marriage officer may transmit a copy of the caveat, with such statement with respect to the caveat as he thinks fit, to the Attorney-General, who shall, after such inquiry, if any, as he thinks fit, give his decision in the matter to the marriage officer.

(5.) The marriage officer shall forthwith inform the person who entered the caveat and the parties to the intended marriage of the decision of the Attorney-General and shall conform to that decision.

Form and
ceremony of
marriage.

69.—(1.) A marriage by or in the presence of a marriage officer under this Division shall be solemnized—

- (a) at the official house of the marriage officer, in the presence of at least two witnesses who are, or appear to the marriage officer to be, over the age of eighteen years; and
- (b) according to such form and ceremony as the parties to the marriage see fit to adopt.

(2.) The marriage officer shall, before the marriage is solemnized, say to the parties, in the presence of the witnesses, the words—

“ I am authorized by the *Marriage Act* 1961 of Australia to solemnize marriages outside Australia.

“ Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn and binding nature of the relationship into which you are now about to enter.

“ Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”,

or words to that effect.

(3.) Unless, having regard to the form and ceremony of the marriage, the marriage officer considers it unnecessary for the parties to the marriage to do so, each of the parties shall, in some

part of the ceremony and in the presence of the marriage officer and the witnesses, say to the other the words—

“ I call upon the persons here present to witness that I,
A.B. (*or* C.D.), take thee, C.D. (*or* A.B.), to be my
lawful wedded wife (*or* husband) ”,

or words to that effect.

70. The parties to a marriage solemnized under this Division shall pay to the marriage officer the prescribed fee. Marriage fee.

Division 3.—Marriages by Chaplains.

71.—(1.) Subject to this Part, a marriage between parties of whom one at least is a member of the Defence Force may be solemnized in an overseas country by or in the presence of a chaplain. Marriages of members of the Defence Force overseas.

(2.) The Governor-General may, by Proclamation, declare that a part of the Queen’s dominions that has been occupied by a state at war with the Commonwealth and in which facilities for marriage in accordance with the local law have not, in the opinion of the Governor-General, been adequately restored shall be deemed to be an overseas country for the purposes of this section.

72.—(1.) A marriage under this Division shall be solemnized— Form and ceremony of marriage.

(a) at such place as the chaplain thinks fit, in the presence of at least two witnesses who are, or appear to the chaplain to be, over the age of eighteen years; and

(b) according to such form and ceremony as the chaplain thinks proper.

(2.) Unless, having regard to the form and ceremony of the marriage, the chaplain considers it unnecessary for the parties to the marriage to do so, each of the parties shall, in some part of the ceremony and in the presence of the chaplain and the witnesses, say to each other the words—

“ I call upon the persons here present to witness that I,
A.B. (*or* C.D.), take thee, C.D. (*or* A.B.), to be my
lawful wedded wife (*or* husband) ”,

or words to that effect.

Division 4.—General.

73. A marriage solemnized under this Part, being a marriage which, if it had been solemnized in Australia in accordance with Division 2 of Part IV. of this Act, would have been a valid marriage, is valid throughout the Commonwealth and all the Territories of the Commonwealth. Validity of marriages.

Declaration to be made before marriage. officer or chaplain.

74.—(1.) A marriage shall not be solemnized under this Part unless each of the parties to the marriage has made and subscribed before the marriage officer or chaplain solemnizing the marriage a declaration, in accordance with the prescribed form, as to—

- (a) the party's conjugal status;
- (b) the party's belief that there is no legal impediment to the marriage; and
- (c) such other matters as are prescribed.

(2.) The declarations of the parties required by the last preceding sub-section shall both be written on the one paper and on the same side of that paper.

(3.) A marriage officer or a chaplain shall not solemnize a marriage under this Part if he has reason to believe that a declaration made and subscribed under this section in relation to the marriage contains a false statement or an error or is defective.

Marriage officer or chaplain to be satisfied of parties' identity.

75. A marriage officer or a chaplain shall not solemnize a marriage under this Part unless he has satisfied himself as to the identity of the parties.

Additional consent to marriage of minor domiciled outside Australia.

76.—(1.) Where—

- (a) a party to an intended marriage under this Part, not being an Australian citizen, has not attained the age of twenty-one years and is domiciled in a place outside Australia; and
- (b) the law of that place requires the consent of a person, other than a person whose consent is required under Part II. of this Act, to the marriage of that party,

the marriage shall not be solemnized unless the marriage officer or chaplain is satisfied that consent to the marriage has been given by that person.

(2.) The requirement of the last preceding sub-section is in addition to the requirements of Part II. of this Act with respect to consents to the marriages of minors.

Restriction on solemnization of marriages under this Part.

77.—(1.) A marriage shall not be solemnized in an overseas country under this Part unless the marriage officer or chaplain is satisfied—

- (a) that each of the parties to the intended marriage is a British subject or a member of the Defence Force;
- (b) where one party to the intended marriage is not a British subject or a member of the Defence Force—
 - (i) that that party is not a subject or citizen of the overseas country; or
 - (ii) that sufficient facilities do not exist for the solemnization of the marriage in the overseas country in accordance with the law of that country;

- (c) where the woman about to be married is a subject or citizen of the overseas country, that objection will not be taken by the authorities of that country to the solemnization of the intended marriage under this Part; or
- (d) that a marriage in the overseas country between the parties in accordance with the law of that country would not be recognized throughout Australia.

(2.) In this section, "overseas country" includes a country that is deemed to be an overseas country for the purposes of section seventy-one of this Act.

78.—(1.) Subject to the next succeeding sub-section, a marriage shall not be solemnized under this Part if the man about to be married is not an Australian citizen or a member of the Defence Force.

Solemnization of marriages where the man is not an Australian citizen or member of the Defence Force.

(2.) The last preceding sub-section does not apply where the marriage officer or chaplain is satisfied—

- (a) that the marriage will be recognized by the law of the country to which the man about to be married belongs;
- (b) that some other marriage ceremony, in addition to the ceremony under this Part, has taken place, or is about to take place, between the parties and that the other ceremony is, or, when it has taken place, will be, recognized by the law of the country to which the man about to be married belongs; or
- (c) that the Attorney-General has approved of the solemnization of the marriage under this Part.

79. A marriage officer or a chaplain to whom a consent, dispensation with consent or statutory declaration is produced under this Act shall retain it in his possession until he deals with it in accordance with the next succeeding section.

Marriage officer or chaplain to retain consents &c.

80.—(1.) Where a marriage officer or a chaplain solemnizes a marriage under this Part, he shall—

Marriage certificate and registration of marriages.

- (a) prepare a certificate of the marriage, in accordance with the prescribed form, for the purpose of issue to the parties to the marriage; and
- (b) prepare two official certificates of the marriage in accordance with the prescribed form.

(2.) Immediately after the solemnization of the marriage—

- (a) the marriage officer or chaplain, as the case may be;
- (b) each of the parties to the marriage; and
- (c) two witnesses of the marriage who are, or appear to the marriage officer or chaplain to be, over the age of eighteen years,

shall sign each of the certificates so prepared.

(3.) One of the official certificates shall be on the reverse side of the paper bearing the declarations made by the parties under section seventy-four of this Act.

(4.) The marriage officer or chaplain shall—

- (a) hand the certificate referred to in paragraph (a) of sub-section (1.) of this section to one of the parties to the marriage on behalf of the parties;
- (b) forward the official certificate referred to in the last preceding sub-section, together with any notice under section sixty-six of this Act and any statutory declarations, consents or dispensations with consents relating to the marriage that are in his possession, to the Registrar; and
- (c) retain the other copy of the certificate in his possession for the prescribed period and, upon the expiration of that period, deal with the copy in accordance with the regulations.

(5.) Where the marriage officer or chaplain dies without having prepared and signed the certificates of the marriage, or where by reason of other special circumstances the Attorney-General thinks it necessary to do so, the Attorney-General may, if he is satisfied that the marriage was duly solemnized, prepare and sign the certificates with such modifications as are appropriate.

(6.) A certificate prepared and signed by the Attorney-General under the last preceding sub-section has the same force and effect as if it had been prepared and signed, in accordance with this section, by the marriage officer or chaplain.

(7.) Upon the receipt by the Registrar of the official certificate required to be forwarded to him in respect of a marriage, the Registrar shall register the marriage.

(8.) In the month of January in each year, a marriage officer or chaplain by whom, or in whose presence, a marriage has been, or marriages have been, solemnized in the preceding year shall forward to the Registrar, in accordance with the prescribed form, particulars of that marriage or those marriages.

(9.) If the certificate of a marriage is not received by the Registrar, the marriage officer or chaplain by whom it was issued shall, at the request of the Registrar—

- (a) prepare a copy of the certificate;
- (b) certify, by writing under his hand, that the copy is a true copy of the certificate; and
- (c) forward the copy to the Registrar.

(10.) A certified copy of a certificate prepared by a marriage officer or chaplain under the last preceding sub-section has, for all purposes, the same force and effect as the certificate of which it is a copy.

81. A marriage officer or chaplain may refuse to solemnize a marriage under this Part on any grounds which appear to the marriage officer or chaplain to be sufficient and, in particular, on the ground that, in the opinion of the marriage officer or chaplain, the solemnization of the marriage would be inconsistent with international law or the comity of nations.

Power to refuse to solemnize marriage.

82. A marriage under this Part may be solemnized on any day and at any time.

Marriages may be solemnized on any day and at any time.

83.—(1.) A marriage under this Part is not invalid by reason of all or any of the following:—

Validity of marriages under this Part.

- (a) failure to give the notice required by section sixty-six of this Act, or a false statement, defect or error in such a notice;
- (b) failure to produce to the marriage officer a certificate or extract of an entry or a statutory declaration as required by section sixty-six of this Act, or a false statement, defect or error in such a declaration;
- (c) failure to comply with any other requirement of section sixty-six of this Act, or any contravention of that section;
- (d) failure of the parties, or either of them, to make or subscribe a declaration required by section seventy-four of this Act, or a false statement, defect or error in such a declaration;
- (e) the fact that the marriage was solemnized in contravention of any provision of section sixty-seven, sixty-eight, sixty-nine, seventy-two, seventy-four, seventy-five, seventy-six, seventy-seven or seventy-eight of this Act;
- (f) failure to comply with the requirements of section thirteen of this Act.

(2.) A marriage under this Part is not invalid by reason that the person solemnizing it was not a marriage officer or chaplain if either party to the marriage, at the time the marriage was solemnized, believed that that person was lawfully authorized to solemnize it, and in such a case the form and ceremony of the marriage shall be deemed to have been sufficient if they were such as to show an intention on the part of each of the parties to become thereby the lawfully wedded spouse of the other.

Registration of overseas marriages attended by a marriage officer or chaplain.

84.—(1.) Where—

- (a) a marriage officer or chaplain has attended a marriage in an overseas country between parties of whom one at least was an Australian citizen or a member of the Defence Force;
- (b) the marriage officer or chaplain is satisfied that the marriage has taken place in accordance with the law of that country; and
- (c) a party to the marriage informs the marriage officer or chaplain, in writing, that he or she desires the marriage to be registered under this section,

the marriage officer, upon payment of the prescribed fee, or the chaplain, as the case may be, shall forward to the Registrar a certificate, in accordance with the prescribed form, in respect of the marriage.

(2.) Upon receipt by the Registrar of a certificate under the last preceding sub-section in respect of a marriage, the Registrar shall, subject to the regulations, register the marriage.

Certificates of marriages solemnized in accordance with local law in an overseas country.

85.—(1.) Where—

- (a) a marriage takes place in a prescribed overseas country in accordance with the law of that country between parties of whom one at least is an Australian citizen or a member of the Defence Force;
- (b) a party to the marriage who is an Australian citizen or a member of the Defence Force produces to a marriage officer or chaplain in the country in which the marriage was solemnized—
 - (i) a copy of the entry in respect of the marriage in the marriage register of that country certified by the appropriate authority in that country to be a true copy of that entry; and
 - (ii) if the copy of that entry is not in the English language—a translation into the English language of that copy; and
- (c) the marriage officer or chaplain is satisfied that the copy of the entry in the marriage register is a true copy and that the translation, if any, is a true translation,

the marriage officer, upon payment of the prescribed fee, or the chaplain, as the case may be, shall certify, upon the copy, that he is satisfied that the copy is a true copy of the entry in the marriage register and, upon the translation, that he is satisfied that the translation is a true translation of the copy and shall transmit the copy and the translation to the Registrar.

(2.) The Registrar shall, upon payment of the prescribed fee, issue to a person who so desires a copy of any document received by him under the last preceding sub-section certified by the Registrar, under his hand and seal, to be a true copy of that document.

(3.) A document relating to a marriage in an overseas country transmitted in pursuance of section twenty-six of the *Marriage (Overseas) Act 1955* or that Act as amended and received by the Registrar of Overseas Marriages appointed under that Act or that Act as amended shall, for the purposes of this section, be deemed to have been, in pursuance of this section, transmitted to, and received by, the Registrar of Overseas Marriages appointed, or deemed to have been appointed, under this Act.

(4.) A document relating to a marriage in an overseas country issued under sub-section (2.) of this section is admissible in evidence in any proceedings as if it were a certificate duly issued by the authorities of that country.

86. A notice, certificate or other document kept in pursuance of this Part by any person, or in the records of the office of any person, is admissible in evidence on its mere production from the custody of that person or from the custody of an officer of the Attorney-General's Department. Evidence.

87. Nothing in this Part in any way affects the validity of a marriage solemnized in an overseas country otherwise than under this Part. Validity of marriages otherwise than under this Part not affected.

88. This Act shall not be taken to repeal or amend the Imperial Acts known as the Foreign Marriage Acts, 1892 and 1934, in so far as those Acts are part of the law of the Commonwealth. Imperial Foreign Marriage Acts.

PART VI.—LEGITIMATION.

89.—(1.) A child (whether born before or after the commencement of this Act) whose parents were not married to each other at the time of his birth but have subsequently married each other (whether before or after the commencement of this Act) is, by virtue of the marriage, for all purposes the legitimate child of his parents as from his birth or the commencement of this Act, whichever was the later. Legitimation by virtue of marriage of parents.

(2.) The last preceding sub-section applies in relation to a child whether or not there was a legal impediment to the marriage of his parents at the time of his birth and whether or not the child was still living at the time of the marriage or, in the case of a child born before the commencement of this Act, at the commencement of this Act.

(3.) Sub-section (1.) of this section does not apply in relation to a child unless—

- (a) at the time of the marriage of his parents his father was domiciled in Australia; or
- (b) the marriage of his parents took place in Australia, or outside Australia under Part V. of this Act or under the *Marriage (Overseas) Act 1955* or that Act as amended.

(4.) Nothing in this section renders ineffective any legitimation that took place before the commencement of this Act by or under a law of a State or Territory or shall be taken to exclude the continued operation of such a law in relation to such a legitimation.

(5.) This section does not apply in relation to a child so as to affect any estate, right or interest in real or personal property to which a person has become, or may become, entitled, either mediately or immediately, in possession or expectancy, by virtue of a disposition that took effect, or by devolution by law on the death of a person who died, before the marriage of the parents of the child or the commencement of this Act, whichever was the later.

Foreign
legitimations.

90.—(1.) Where—

- (a) the parents of a child born illegitimate (whether before or after the commencement of this Act) have married each other (whether before or after the commencement of this Act);
- (b) the marriage took place outside Australia;
- (c) the father of the child was not domiciled in Australia at the time of the marriage; and
- (d) by the law of the place where the father was then domiciled the child became legitimated by virtue of the marriage,

the child is for all purposes the legitimate child of his parents as from the time of the marriage or the commencement of this Act, whichever was the later.

(2.) The last preceding sub-section applies in relation to a child whether or not the law of the place in which the father of the child was domiciled at the time of the birth of the child permitted or recognized legitimation by subsequent marriage, and whether or not the child was still living at the time of the marriage or, in the case of a child born before the commencement of this Act, at the commencement of this Act.

Legitimacy of
children of
certain void
marriages.

91.—(1.) Subject to this section, a child of a marriage that is void shall be deemed for all purposes to be the legitimate child of his parents as from his birth or the commencement of this Act, whichever was the later, if, at the time of the intercourse that

resulted in the birth of the child or the time when the ceremony of marriage took place, whichever was the later, either party to the marriage believed on reasonable grounds that the marriage was valid.

(2.) The last preceding sub-section does not apply unless one of the parents of the child was domiciled in Australia at the time of the birth of the child or, having died before that time, was domiciled in Australia immediately before his death.

(3.) Sub-section (1.) of this section applies in relation to a child whether the child was born before or after the commencement of this Act, whether the ceremony of marriage took place before or after the commencement of this Act and whether the ceremony of marriage took place in or outside Australia.

(4.) This section does not apply in relation to a child so as to affect any estate, right or interest in real or personal property to which a person has become, or may become, entitled, either mediately or immediately, in possession or expectancy, by virtue of a disposition that took effect, or by devolution by law on the death of a person who died, before the birth of the child or the commencement of this Act, whichever was the later.

92.—(1.) A person may apply to the Supreme Court of a State or Territory for an order declaring—

Declarations
of legitimacy,
&c.

(a) that he is the legitimate child of his parents; or

(b) that he or his parent or child or a remoter ancestor or descendant is or was a legitimated person,

and the Court may, in its discretion, make the order.

(2.) The Supreme Court of each State is invested with federal jurisdiction, and jurisdiction is conferred on the Supreme Court of each Territory, to hear and determine applications under this section.

(3.) The jurisdiction with which the Supreme Court of a State is invested by this section is subject to the conditions and restrictions specified in sub-section (2.) of section thirty-nine of the *Judiciary Act* 1903–1960 so far as they are applicable.

(4.) The Court to which an application under this section is made may—

(a) direct that notice of the application be given to such persons (who may include the Attorney-General of the Commonwealth or the Attorney-General of a State) as the Court thinks fit;

(b) direct that a person be made a party to the application;
or

(c) permit a person having an interest in the matter to intervene in, and become a party to, the proceedings.

(5.) Where the Court makes an order upon the application, it may include in the order such particulars in relation to the legitimacy or legitimation of the person to whom it relates as the Court finds to be established.

(6.) An order made under this section binds the Crown in right of the Commonwealth or of a State, whether or not notice was given to the Attorney-General of the Commonwealth or of that State, but does not affect—

- (a) the rights of another person unless that other person was—
 - (i) a party to the proceedings for the order or a person claiming through such a party; or
 - (ii) a person to whom notice of the application for the order was given or a person claiming through such a person; or
- (b) an earlier judgment, order or decree of a court of competent jurisdiction, whether in exercise of federal jurisdiction or not.

Adoptions and State, &c., law as to registration not to be affected.

93.—(1.) Nothing in this Part shall be taken to operate in relation to a child so as to affect the validity or effect of an adoption of the child, whether the adoption took place before, or takes place after, the commencement of this Act.

(2.) Nothing in this Part shall be taken to exclude the operation of a law of a State or Territory in so far as it provides for the making or altering of entries in a register, but a legitimation under this Part is not affected by any failure to comply with such a law.

PART VII.—OFFENCES.

Bigamy.

94.—(1.) A person who is married shall not go through a form or ceremony of marriage with any person.

Penalty: Imprisonment for five years.

(2.) It is a defence to a prosecution for an offence against the last preceding sub-section if the defendant proves that—

- (a) at the time of the alleged offence, he believed that his spouse was dead; and
- (b) his spouse had been absent from him for such time and in such circumstances as to provide, at the time of the alleged offence, reasonable grounds for presuming that his spouse was dead.

(3.) For the purposes of the last preceding sub-section, proof by a defendant that his spouse had been continually absent from him for the period of seven years immediately preceding the

date of the alleged offence and that, at the time of the alleged offence, the defendant had no reason to believe that his spouse had been alive at any time within that period is sufficient proof of the matters referred to in paragraph (b) of that sub-section.

(4.) A person shall not go through a form or ceremony of marriage with a person who is married, knowing, or having reasonable grounds to believe, that the latter person is married.

Penalty: Imprisonment for five years.

(5.) It is not an offence against this section for a person to go through a form or ceremony of marriage with that person's own spouse.

(6.) In a prosecution for an offence against this section, the spouse of the accused person is a competent and compellable witness for either the prosecution or the defence.

(7.) In a prosecution for an offence against this section, the fact that, at the time of the alleged offence, a person was married shall not be taken to have been proved if the only evidence of the fact is the evidence of the other party to the alleged marriage.

(8.) This section operates to the exclusion of any law of a State or Territory making it an offence—

(a) for a person who is married to go through a form or ceremony of marriage with any person; or

(b) for a person to go through a form or ceremony of marriage with a person who is married,

but does not affect the operation of such a law in relation to acts and things done before the commencement of this Act.

95.—(1.) A person shall not go through a form or ceremony of marriage with a person who is not of marriageable age.

Marrying
person not of
marriageable
age, &c.

Penalty: Imprisonment for five years.

(2.) A person shall not go through a form or ceremony of marriage with a person (in this sub-section referred to as "the other party to the marriage") who is a minor unless—

(a) the other party to the marriage has previously been married; or

(b) the written consent of the person, or of each of the persons, whose consent to the marriage of the other party to the marriage is required by this Act, has been given or dispensed with in accordance with this Act.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

(3.) It is a defence to a prosecution for an offence against sub-section (1.) of this section if the defendant proves that he believed on reasonable grounds that the person with whom he went through the form or ceremony of marriage was of marriageable age.

(4.) It is a defence to a prosecution for an offence against sub-section (2.) of this section if the defendant proves that he believed on reasonable grounds—

- (a) that the person with whom he went through the form or ceremony of marriage had attained the age of twenty-one years or had previously been married; or
- (b) that the consent of the person, or of each of the persons, referred to in paragraph (b) of that sub-section had been given or dispensed with in accordance with this Act.

False
declaration, &c.

96.—(1.) A person shall not wilfully make a false statement in a declaration under this Act.

(2.) A person shall not, in connexion with a proposed religious ceremony of marriage, furnish to another person a statement in writing as to the matters specified in sub-paragraphs (i) to (iii) of paragraph (b) of sub-section (5.) of section one hundred and thirteen of this Act which, to the knowledge of the first-mentioned person, is false in a material particular.

(3.) A person shall not forge, or forge a signature to, a document for the purpose of inducing another person to solemnize a marriage.

Penalty: Five hundred pounds or imprisonment for four years.

Personation
of person
whose consent
is required by
this Act.

97. A person shall not falsely represent himself to be a person whose consent to the marriage of another person is required by this Act.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

Presenting
forged consent,
&c.

98.—(1.) A person shall not present, or cause to be presented, to a person authorized to solemnize marriages a document, purporting to be the consent, or a dispensation with the consent, of a person to a marriage, the signature to which is, to the knowledge of the first-mentioned person, forged or was, to the knowledge of that person, obtained by fraud.

(2.) A person shall not subscribe his name as a witness to the signature of a person to a consent to the marriage of a minor in contravention of sub-section (3.) of section thirteen of this Act.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

99.—(1.) An authorized celebrant shall not solemnize a marriage under Division 2 of Part IV. of this Act in contravention of section forty-two or forty-four of this Act.

Solemnizing marriage where notice or declaration not given or made, &c.

(2.) A marriage officer shall not solemnize a marriage under Division 2 of Part V. of this Act in contravention of section sixty-six, sixty-seven, sixty-eight, seventy-four, seventy-five, seventy-six, seventy-seven or seventy-eight of this Act.

(3.) A chaplain shall not solemnize a marriage under Division 3 of Part V. of this Act in contravention of section seventy-four, seventy-five, seventy-six, seventy-seven or seventy-eight of this Act.

(4.) A person shall not solemnize a marriage in contravention of section thirteen or one hundred and twelve of this Act.

(5.) A person shall not solemnize a marriage in contravention of sub-section (4.) of section thirty-three of this Act.

(6.) A person shall not, in contravention of sub-section (1.) of section one hundred and thirteen of this Act, purport to solemnize a marriage between persons who inform him that they are already legally married to each other or whom he knows or has reason to believe to be already legally married to each other.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

100. A person shall not solemnize a marriage, or purport to solemnize a marriage, if he has reason to believe that there is a legal impediment to the marriage.

Solemnizing marriage where reason to believe there is a legal impediment.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

101. A person shall not solemnize a marriage, or purport to solemnize a marriage, at a place in Australia or under Part V. of this Act unless he is authorized by or under this Act to solemnize marriages at that place or under that Part, as the case may be.

Solemnization of marriage by unauthorized person.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

102. A person shall not wilfully make a false statement in an application for registration under Division 1 of Part IV. of this Act or for authority to solemnize marriages under sub-section (2.) of section thirty-nine of this Act, or wilfully make a false statement, whether orally or in writing, in support of such an application.

False statement in application for registration as authorized celebrant.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

Going through ceremony of marriage before person not authorized to solemnize it.

103. A person shall not go through a form or ceremony of marriage with another person knowing that the person solemnizing the marriage is not authorized to solemnize it and having reason to believe that the other party to the marriage believes that the person solemnizing the marriage is so authorized.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

Giving defective notice, &c.

104.—(1.) A person shall not give a notice to an authorized celebrant under section forty-two of this Act, or to a marriage officer under section sixty-six of this Act, or sign a notice under section forty-two or section sixty-six of this Act after it has been given, if, to the knowledge of that person, the notice contains a false statement or an error or is defective.

(2.) A person shall not enter a caveat under section sixty-eight of this Act if, to the knowledge of that person, the caveat contains a false statement or an error or is defective.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

Failure to comply with notice under section 51.

105. A person on whom a notice under section fifty-one of this Act has been duly served shall not, without reasonable excuse, fail to comply with the notice.

Penalty: Fifty pounds.

Failure by interpreter to furnish certificate, &c.

106. A person who has acted as interpreter at the solemnization of a marriage shall not—

- (a) fail to comply with sub-section (3.) of section one hundred and twelve of this Act; or
- (b) wilfully make a false statement in a certificate under that sub-section.

Penalty: Two hundred and fifty pounds or imprisonment for six months.

PART VIII.—TRANSITIONAL PROVISIONS.

Exercise of powers, &c., before commencement of Act.

107.—(1.) Section four of the *Acts Interpretation Act 1901–1957* applies in relation to the provisions of this Act that are to come into operation on a date to be fixed by Proclamation as if those provisions were an Act.

(2.) For the purpose of enabling marriages to be solemnized in Australia in accordance with Division 2 of Part IV. of this Act from the commencement of this Act—

- (a) a notice of intention to marry may be given, and a declaration may be made, under section forty-two of this Act;

(b) any consent to the marriage of a minor required by Part II. of this Act may be given; and

(c) any power conferred on a prescribed authority may be exercised,

at any time after the day on which the Proclamation under section two of this Act has been published in the *Gazette* and before the commencement of this Act, as if the provisions of this Act to which the Proclamation relates had come into operation on that day.

(3.) For the purposes of the operation of the last preceding sub-section, any person who is authorized under a law of a State or Territory to solemnize marriages shall be deemed to be an authorized celebrant.

108.—(1.) The provisions of sections ninety-six, ninety-seven and ninety-eight and sub-section (1.) of section one hundred and four of this Act apply to and in relation to acts done, notices given and declarations made before the commencement of this Act in relation to marriages that take place in Australia after the commencement of this Act or that have not taken place but were intended to be solemnized in Australia in accordance with this Act.

Application of offence provisions to notices, &c., given before commencement of this Act.

(2.) For the purposes of the application of section ninety-eight and sub-section (1.) of section one hundred and four of this Act to and in relation to an act done or a notice given at a time before the commencement of this Act in relation to such a marriage, a person who at that time was authorized under a law of a State or Territory to solemnize marriages shall be deemed to have been an authorized celebrant at that time.

109.—(1.) A consent in writing to the marriage of a minor given by a person before the commencement of this Act in accordance with the law of a State or Territory shall, if the marriage in respect of which the consent was given takes place after the commencement of this Act in that State or Territory, be deemed to have been duly given and witnessed for the purposes of section thirteen of this Act.

Consents &c., given under State or Territory laws.

(2.) Where the consent of a person to the marriage of a minor has, before the commencement of this Act, been dispensed with in pursuance of a law of a State or Territory, the consent of that person shall, if the marriage in respect of which it was dispensed with takes place after the commencement of this Act in that State or Territory, be deemed to have been dispensed with by a prescribed authority under Part II. of this Act.

(3.) Where a person or authority has, before the commencement of this Act, in pursuance of a law of a State or Territory, given his consent to the marriage of a minor in place of the

consent of a person whose consent would otherwise be required, the consent so given shall, if the marriage in respect of which the consent was given takes place after the commencement of this Act in that State or Territory, be deemed to have been given by a magistrate under Part II. of this Act.

Notices, &c.,
given under
Marriage
(Overseas) Act.

110.—(1.) Where—

- (a) notice of an intended marriage has been given to a marriage officer in accordance with section ten of the *Marriage (Overseas) Act 1955–1958*; and
- (b) the intended marriage has not been solemnized before the commencement of this Act,

the notice shall be deemed to have been given in accordance with section sixty-six of this Act.

(2.) A caveat against the solemnization of an intended marriage entered in pursuance of section eleven of the *Marriage (Overseas) Act 1955–1958* and not disposed of in accordance with that section before the commencement of this Act shall be deemed to have been given in pursuance of section sixty-eight of this Act.

PART IX.—MISCELLANEOUS.

Certain
marriages and
legitimations
to be valid in
all the
Territories.

111.—(1.) A marriage solemnized in accordance with Division 2 of Part IV. of this Act that is a valid marriage in Australia is valid in all the Territories of the Commonwealth.

(2.) A person who is, as from a particular time, the legitimate child of his parents by force of section eighty-nine or ninety of this Act, or is to be deemed to be, as from a particular time, the legitimate child of his parents by virtue of section ninety-one of this Act, is, or shall be deemed to be, for all purposes the legitimate child of his parents as from that time in all the Territories of the Commonwealth.

(3.) The operation of the last preceding sub-section in relation to a child to whom section eighty-nine or ninety-one of this Act applies is subject to a like qualification to that provided by sub-section (5.) of section eighty-nine or sub-section (4.) of section ninety-one of this Act, as the case requires.

(4.) Sub-section (2.) of this section shall not be taken to operate in relation to a child so as to affect the validity or effect of an adoption of the child, whether the adoption took place before, or takes place after, the commencement of this Act.

Interpreters
at marriage
ceremonies.

112.—(1.) Subject to this section, where the person by whom or in whose presence a marriage is to be solemnized considers that it is desirable to do so, he may use the services of an interpreter, not being a party to the marriage, in or in connexion with the ceremony.

(2.) A person shall not solemnize a marriage in or in connexion with the ceremony of which the services of an interpreter are used unless he has received a statutory declaration by the interpreter stating that he understands, and is able to converse in, the languages in respect of which he is to act as interpreter.

(3.) A person who has acted as interpreter in or in connexion with a ceremony of marriage shall, forthwith after the ceremony has taken place, furnish to the person solemnizing the marriage a certificate signed by him, in the prescribed form, of the faithful performance of his services as interpreter.

(4.) This section applies in relation to marriages to which Division 2 of Part IV. of this Act applies and marriages under Part V. of this Act.

113.—(1.) Except in accordance with this section—

- (a) persons who are already legally married to each other shall not, in Australia or under Part V. of this Act, go through a form or ceremony of marriage with each other; and
- (b) a person who is authorized by this Act to solemnize marriages shall not purport to solemnize a marriage in Australia or under Part V. of this Act between persons who inform him that they are already legally married to each other or whom he knows or has reason to believe to be already legally married to each other.

Second
marriage
ceremonies.

(2.) Where—

- (a) two persons have gone through a form or ceremony of marriage with each other, whether before or after the commencement of this Act; and
- (b) there is a doubt—
 - (i) whether those persons are legally married to each other;
 - (ii) where the form or ceremony of marriage took place outside Australia, whether the marriage would be recognized as valid by a court in Australia; or
 - (iii) whether their marriage could be proved in legal proceedings,

those persons may, subject to this section, go through a form or ceremony of marriage with each other in accordance with Division 2 of Part IV. or under Part V. of this Act as if they had not previously gone through a form or ceremony of marriage with each other.

(3.) Where two persons wish to go through a form or ceremony of marriage with each other in pursuance of the last preceding sub-section, they shall furnish to the person by whom, or in whose presence, the form or ceremony is to take place or be performed—

- (a) a statutory declaration by them stating that they have previously gone through a form or ceremony of marriage with each other and specifying the date on which, the place at which and the circumstances in which they went through that form or ceremony; and
- (b) a certificate by a barrister or solicitor, being a certificate endorsed on the statutory declaration, that, on the facts stated in the declaration, there is, in his opinion, a doubt as to one of the matters specified in paragraph (b) of the last preceding sub-section.

(4.) The person by whom or in whose presence a form or ceremony of marriage takes place or is performed in pursuance of sub-section (2.) of this section shall make an endorsement in accordance with the regulations on each certificate issued in respect of it.

(5.) Nothing in this Act shall be taken to prevent two persons who are already legally married to each other from going through a religious ceremony of marriage with each other in Australia where those persons have—

- (a) produced to the person by whom or in whose presence the ceremony is to be performed a certificate of their existing marriage; and
- (b) furnished to that person a statement in writing, signed by them and witnessed by that person, that—
 - (i) they have previously gone through a form or ceremony of marriage with each other;
 - (ii) they are the parties mentioned in the certificate of marriage produced with the statement; and
 - (iii) they have no reason to believe that they are not legally married to each other or, if their marriage took place outside Australia, they have no reason to believe that it would not be recognized as valid in Australia.

(6.) The provisions of sections forty-two, forty-four, fifty and fifty-one of this Act do not apply to or in relation to a religious ceremony of marriage in accordance with the last preceding

sub-section and the person by whom, or in whose presence, the ceremony is performed shall not—

- (a) prepare or issue in respect of it any certificate of marriage under or referring to this Act; or
- (b) issue any other document to the parties in respect of the ceremony unless the parties are described in the document as being already legally married to each other.

(7.) A person who is not an authorized celebrant does not commit an offence against section one hundred and one of this Act by reason only of his having performed a religious ceremony of marriage between parties who have complied with the requirements of sub-section (5.) of this section.

114.—(1.) In this section, “the registrar” means the Registrar of Foreign Marriages or the Registrar of Overseas Marriages.

Correction of errors in marriage registries.

(2.) Where the registrar is satisfied that a register of marriages kept by him contains an error or a mis-statement in, or an omission from, the particulars of a marriage entered in it, he may correct the register by causing the true particulars of the marriage or the particulars omitted from the register, as the case may be, to be entered in the margin of the register opposite to the entry of the marriage.

(3.) Where the registrar causes particulars to be entered in the margin of a register under this section, he shall sign his name immediately under those particulars and write in the margin the date on which the particulars were so entered.

(4.) The registrar may, before he corrects an error, mis-statement or omission under this section, require the true particulars of the marriage, or the particulars omitted from the register, as the case may be, to be verified by the statutory declaration of the parties to the marriage or a person who satisfies him that he has personal knowledge of those particulars.

(5.) Subject to the next succeeding sub-section, where a copy of, or extract from, an entry in a register of marriages that has been corrected under this section is issued, the copy or extract shall contain the particulars that would be contained in the entry if the particulars in fact contained in the entry were corrected so as to accord with the particulars entered in the margin of the register.

(6.) A copy of, or extract from, an entry in a register shall contain the particulars contained in the entry and the particulars entered, in relation to the entry, in the margin of the register if the registrar is satisfied that the person requiring a copy or extract has proper reasons for requiring a copy or extract containing those particulars.

Publication of
lists of
authorized
celebrants.

115.—(1.) The Attorney-General shall cause to be published in the *Gazette*, as soon as practicable after the commencement of this Act, and as soon as practicable after each fourteenth day of March thereafter—

- (a) a list of the persons who are authorized celebrants; and
- (b) a list of the persons who are prescribed authorities in relation to marriages in Australia.

(2.) The list referred to in paragraph (a) of the last preceding sub-section shall show—

- (a) in respect of each minister of religion registered under Division 1 of Part IV. of this Act—his full name, designation, address and religious denomination; and
- (b) in respect of each other person—his full name, designation (if any) and address and, where appropriate, the religious body or religious organization to which he belongs.

(3.) The list referred to in paragraph (b) of sub-section (1.) of this section shall show the full name, designation (if any) and address of each prescribed authority and, where appropriate, the religious body or religious organization to which he belongs.

(4.) The inclusion of the name of a person in the latest list published in pursuance of paragraph (a) of sub-section (1.) of this section is evidence that that person is an authorized celebrant and inclusion of the name of a person in the latest list published in pursuance of paragraph (b) of that sub-section is evidence that that person is a prescribed authority.

Judicial notice
of signatures of
Registrars,
celebrants, &c.

116.—(1.) Judicial notice shall be taken of the signature of a person who holds or has held, or is acting or has acted in, the office of—

- (a) Registrar of Foreign Marriages;
- (b) Deputy Registrar of Foreign Marriages;
- (c) Registrar of Overseas Marriages; or
- (d) Deputy Registrar of Overseas Marriages,

appearing on a document under this Act and of the fact that, at the time the document was signed by him, he held, or was acting in, that office.

(2.) Judicial notice shall be taken of the signature of a person who is, or has been, an authorized celebrant, marriage officer or chaplain appearing on a document under this Act and of the fact that, at the time the document was signed by him, he was an authorized celebrant, marriage officer or chaplain, as the case may be.

(3.) Judicial notice shall be taken of the signature of a person who has, at any time—

(a) performed the functions of a Judge or magistrate under Part II. or III. of this Act;

(b) performed the functions of a prescribed authority under this Act; or

(c) kept a register under Division 1 of Part IV. of this Act, appearing on a document under this Act and of the fact that, at the time the document was signed, that person was duly authorized to perform those functions or to keep that register, as the case may be.

117.—(1.) A certificate under the hand of a person by whom a register under Division 1 of Part IV. of this Act is kept stating that a specified person was, at a date specified in the certificate, registered under that Division in the register kept by him for the purposes of that Division is evidence that the person specified in the certificate was registered under that Division at the date so specified.

Evidence of registration under Division 1 of Part IV.

(2.) A certificate under the hand of the Attorney-General stating that a person specified in the certificate was not, at a date specified in the certificate, registered under Division 1 of Part IV. of this Act is evidence that the person specified in the certificate was not registered under that Division at the date so specified.

(3.) In a prosecution for an offence against this Act, an averment by the prosecutor in the information or complaint that the defendant or any other person specified in the averment is identical with the person specified in a certificate under this section is evidence of that fact.

118. Nothing in this Act affects the right of a minister of religion who is an authorized celebrant to require or receive a fee for or in respect of the solemnization of a marriage.

Right of ministers of religion to receive fees.

119.—(1.) Subject to the succeeding provisions of this section—

Jurisdiction of courts.

(a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories,

with respect to offences against this Act, whether committed within or outside Australia.

(2.) The jurisdiction invested in or conferred on courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places

at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise, but is subject, in the case of jurisdiction invested in courts of the States, to the conditions and restrictions specified in paragraphs (a) to (c) of sub-section (2.) of section thirty-nine of the *Judiciary Act 1903-1960*.

(3.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Magistrate.

(4.) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or Territory.

(5.) Subject to this Act, the laws of a State or Territory with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

- (a) their summary conviction;
- (b) their examination and commitment for trial on indictment;
- (c) their trial and conviction on indictment; and
- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act.

(6.) Except as provided by this section, the *Judiciary Act 1903-1960* applies in relation to offences against this Act or the regulations.

(7.) In this section—

“court of summary jurisdiction” includes a court of a Territory sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory;

“Magistrate” means a Chief, Police, Stipendiary, Resident or Special Magistrate.

Regulations.

120. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular—

- (a) prescribing the forms to be used under this Act;

- (b) prescribing the practice and procedure in relation to inquiries under Part II. of this Act by a Judge or a magistrate, and in relation to the hearing of applications under section twenty-four of this Act, including the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation, the administering of oaths or affirmations and the payment of expenses of witnesses;
- (c) prescribing the manner of making application for registration under Division 1 of Part IV. of this Act;
- (d) prescribing the fees to be charged in respect of the solemnization of marriages by authorized celebrants who are not ministers of religion and by marriage officers;
- (e) prescribing the conditions under which, and the manner in which, marriages solemnized in accordance with the law of an overseas country may be registered under section eighty-four of this Act;
- (f) making provision for the recognition in Australia of marriages solemnized under a law in force in a place outside Australia, being a law which makes provision appearing to the Governor-General to be similar to any provision made by Part V. of this Act;
- (g) requiring the furnishing, to the persons by whom registers of births are kept under a law of the Commonwealth or a State or of any Territory of the Commonwealth, of information with respect to—
 - (i) legitimations effected by sections eighty-nine, ninety and ninety-one of this Act; and
 - (ii) orders made under section ninety-two of this Act;
- (h) making provision for and in relation to—
 - (i) registration of legitimations effected by sections eighty-nine, ninety and ninety-one of this Act in cases where the births of the legitimated children are not registered in any register of births kept under a law of the Commonwealth or a State or of any Territory of the Commonwealth (including provision requiring the furnishing of information); and
 - (ii) the issue and effect of certificates in respect of any such registration; and
- (i) prescribing penalties not exceeding a fine of One hundred pounds for offences against the regulations.

THE SCHEDULE.

Section 14.

PERSONS WHOSE CONSENT IS REQUIRED TO THE MARRIAGE OF A MINOR.

PART I.

Where the Minor is Legitimate and is not an Adopted Child.

Circumstances in relation to the Minor.	Person or persons whose consent is required.
1. Where both parents of the minor are alive—	
(a) in any case other than a case to which paragraph (b), (c) or (d) of this Item is applicable	Both parents
(b) if the parents are divorced or separated by order of a court or by agreement—	
(i) if the minor lives permanently with one parent	The parent with whom the minor lives
(ii) if the minor lives with one parent for part of a year and with the other parent for the remainder of the year	Both parents
(c) if one parent has been deserted by the other parent	The parent who has been so deserted
(d) if both parents have been deprived of the custody of the minor by the order of a court	The person or persons who has or have the custody of the minor under the order of the court
2. Where only one parent of the minor is alive—	
(a) if there is no other guardian of the minor	The surviving parent
(b) if there is or are a guardian or guardians of the minor acting jointly with the surviving parent	The surviving parent and the other guardian or guardians
(c) if there is or are a guardian or guardians of the minor not acting jointly with the surviving parent	The guardian or guardians
3. Where both parents of the minor are dead—	
(a) if there is or are a guardian or guardians of the minor	The guardian or guardians
(b) if there is no guardian of the minor	A prescribed authority

PART II.

Where the Minor is Illegitimate and is not an Adopted Child.

Circumstances in relation to the Minor.	Person or persons whose consent is required.
1. Where the mother of the minor is alive—	
(a) if she has not been deprived of the custody of the minor by the order of a court	The mother
(b) if she has been deprived of the custody of the minor by the order of a court	The person who has the custody of the minor under the order of the court
2. Where the mother of the minor is dead—	
(a) if there is or are a guardian or guardians of the minor	The guardian or guardians
(b) if there is no guardian of the minor	A prescribed authority

THE SCHEDULE—*continued.*

PART III.

Where the Minor is an Adopted Child.

Circumstances in relation to the Minor.	Person or persons whose consent is required.
1. Where the minor was adopted by a husband and wife jointly	The person or persons who would be the prescribed person or persons under Part I. of this Schedule if the minor had been born in lawful wedlock to his adoptive parents
2. Where the minor was adopted by one person only— (a) if the adoptive parent is alive and has not been deprived of the custody of the minor by the order of a court (b) if the adoptive parent is alive but has been deprived of the custody of the minor by the order of a court (c) if the adoptive parent is dead— (i) if there is or are a guardian or guardians of the minor (ii) if there is no guardian of the minor	The adoptive parent The person who has the custody of the minor under the order of the court The guardian or guardians A prescribed authority