

Marriage Act, RSA 2000, c M-5

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MARRIAGE ACT

Chapter M-5

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts
as follows:

Definitions

1 In this Act,

- (a) repealed 2007 cV-4.1 s87;
- (b) “issuer” means an issuer of marriage licences appointed under section 12;
- (c) repealed 2014 c8 s14;
- (d) “member of the clergy” means a person qualified to be registered under section 4;
- (e) “Minister” means the Minister determined under section 16 of the *Government
Organization Act* as the Minister responsible for this Act;

(f) “Registrar” means the Registrar of Vital Statistics appointed under the *Vital Statistics Act*.

RSA 2000 cM-5 s1;2007 cV-4.1 s87;2014 c8 s14

2 Repealed 2014 c8 s14.

Persons authorized to solemnize marriage

3 No person shall solemnize a marriage except

- (a) a member of the clergy registered under this Act, or
- (b) a marriage commissioner appointed under this Act.

RSA 1980 cM-6 s2;1983 c86 s14

Registration of members of clergy

4(1) Subject to this section, the Registrar may register as a person authorized to solemnize marriage any person whose name is submitted to the Registrar by the governing authority of the religious body to which the person belongs.

(2) No person shall be registered unless the religious body to which the person belongs is sufficiently well established, both as to continuity of existence and as to rites and usages respecting the solemnization of marriage, to warrant, in the opinion of the Registrar, the registration of its members of the clergy as persons authorized to solemnize marriage.

(3) No person shall be registered unless it appears to the Registrar that

- (a) the person is an adult and resident in Alberta,
- (b) the person has been ordained or appointed according to the rites and usages of the religious body to which the person belongs or is, by the rules of that religious body, deemed ordained or appointed,
- (c) the person is recognized by that religious body as entitled to solemnize marriage according to its rites and usages, and
- (d) the person
 - (i) is in charge of or officiating in connection with a congregation, branch or local unit in Alberta of the religious body,
 - (ii) having been formerly so in charge of or officiating in connection with a congregation, branch or local unit in Alberta, has been superannuated or placed on the supernumerary list, or
 - (iii) is a retired member of the clergy in good standing of the religious body, though not in charge of or officiating in connection with a congregation, branch or local unit.

(4) Notwithstanding subsection (3), in the case of a person who is in Alberta temporarily and who, if the person were resident and officiating in Alberta, could be registered under this section, the

Registrar may register the person as authorized to solemnize marriage during a period to be fixed by the Registrar, in which case the certificate of registration shall state the period so fixed.

RSA 2000 cM-5 s4;2007 cV-4.1 s87

Marriage of Baha'i Faith

5(1) Notwithstanding sections 3 and 4, when

- (a) an incorporated Local Spiritual Assembly of the Baha'i Faith has received the approval of the National Spiritual Assembly of the Baha'is of Canada to appoint a marriage registrar, and
- (b) a person is designated as a marriage registrar by that Assembly,

the Registrar may register that person under this section to exercise the powers conferred and to carry out the duties imposed by this Act and the *Vital Statistics Act* on a person authorized by this Act to solemnize marriage.

(2) A marriage is not invalid by reason only of the fact that it was authorized by an incorporated Local Spiritual Assembly, conducted in accordance with the rites and usages of the Baha'i Faith and registered by a marriage registrar described in subsection (1).

(3) Nothing in this section requires the marriage to be celebrated or solemnized by the person designated as a marriage registrar and registered under this section.

(4) Nothing in this section authorizes the marriage of a person under the age of 18 years except as provided in this Act.

RSA 2000 cM-5 s5;2007 cV-4.1 s87

Registration certificate

6(1) The Registrar shall issue a certificate of registration to each member of the clergy who is registered under this Act.

(2) The Registrar shall keep a record showing

- (a) the name of each member of the clergy registered under this Act,
- (b) the name of the religious body to which the member belongs,
- (c) the date of the member's registration, and
- (d) the member's registration number.

RSA 2000 cM-5 s6;2007 cV-4.1 s87

Cancellation of registration

7(1) The governing authority of every religious body

- (a) shall notify the Registrar when one of its registered members of the clergy dies or ceases to reside in Alberta or in any other way ceases to possess the qualifications entitling the member to be registered, and

(b) shall send to the Registrar at least once every year, or more often as required by the Registrar, a list of all the members in Alberta of that religious body who are recognized by it as entitled to solemnize marriage.

(2) When it appears to the Registrar that a person registered under this Act has ceased to possess the qualifications entitling the person to be registered, the Registrar may cancel the registration.

RSA 2000 cM-5 s7;2007 cV-4.1 s87

Marriage commissioners

8(1) The Minister may appoint adult persons resident in Canada as marriage commissioners for Alberta or any district of Alberta for terms of 5 years or less.

(2) No particular form of ceremony is required in the solemnization of a marriage by a marriage commissioner except that in some part of the ceremony, in the presence of the marriage commissioner and the witnesses, each of the parties shall declare:

I do solemnly declare that I do not know of any lawful impediment why
I, _____, may not be joined in matrimony to _____.

and each of the parties shall say to the other:

I call on those persons present to witness that I, _____, do take you, _____,
to be my lawful wedded wife (*or* husband, *or* spouse).

(3) If the parties to a marriage solemnized by a marriage commissioner desire a religious ceremony in addition to it, a proof of marriage document given by the marriage commissioner who solemnized it is sufficient authority for a member of the clergy to perform the religious ceremony.

(4) A religious ceremony performed as mentioned in subsection (3) is in addition to and does not supersede the solemnization of the marriage by the marriage commissioner and this Act does not apply to that religious ceremony, nor shall it be registered under the *Vital Statistics Act* as a marriage.

RSA 2000 cM-5 s8;2009 c7 s8;2014 c8 s14

Licence required

9 No person shall solemnize a marriage

(a) except under the authority of a marriage licence issued to the parties pursuant to this Act, and

(b) except within 3 months after the date of the issue of the licence.

RSA 1980 cM-6 s8

Witnesses to marriage

10(1) No person shall solemnize a marriage without the presence of the parties and at least 2 credible witnesses who are adults.

(2) No person shall solemnize a marriage when one or both of the parties do not understand the language in which the marriage ceremony is to be performed unless an interpreter is present to

interpret and explain clearly to the party or parties the meaning of the ceremony.

RSA 1980 cM-6 s9;1983 c86 s4

Proof of marriage document

11 In addition to registering the marriage as required by the *Vital Statistics Act*, the person who solemnizes a marriage shall give the parties a signed proof of marriage document specifying the names of the parties, the date and place of the marriage and the names of the witnesses.

RSA 1980 cM-6 s10;1983 c86 s5

Marriage licence issuers

12(1) The Minister may, for any district of Alberta, appoint adult persons as issuers of marriage licences for terms of up to 5 years.

(2) An issuer may appoint in writing and for a period of not more than 12 months a deputy to act for the issuer in the issuer's absence, and the deputy issuer possesses all the powers of the issuer appointing the deputy issuer, and shall sign each licence issued by the deputy issuer with the name of the issuer as well as the deputy issuer's own name in the following manner:

_____,
Issuer of Marriage Licences,
per _____,
Deputy Issuer.

(3) An issuer is by virtue of the issuer's office a commissioner empowered to administer oaths and may take and receive the affidavits, declarations or affirmations required under this Act and the regulations.

RSA 1980 cM-6 s11;1983 c86 s6

Issue of marriage licence

13 An application for a marriage licence shall be made by both parties to an intended marriage and subject to the conditions and prohibitions

- (a) of sections 14 to 19, and
- (b) of any other law in force in Alberta,

the issuer to whom the application is made shall issue the licence applied for.

RSA 1980 cM-6 s12

Information with application for licence

14(1) An issuer shall not issue a marriage licence until the prescribed licence fee is paid to the issuer and each of the applicants for the licence has delivered to the issuer an affidavit of particulars in a form set by the Registrar.

(2) The affidavit referred to in subsection (1) must be sworn to by each applicant before the issuer, except that if either of the applicants is unable to swear the affidavit before the issuer, the issuer may

permit the affidavit to be made before a notary public, in which case the affidavit shall state the reason relied on to excuse personal attendance before the issuer.

(3) If an issuer has reason to suspect that any statement in the affidavit of an applicant for a marriage licence is not correct, the issuer shall require a further affidavit or affidavits, or other evidence of the truth of the statement, and all the affidavits and a minute of the evidence shall be forwarded to the Registrar.

(4) An issuer

- (a) may require the production of witnesses to identify any applicant for a licence, and
- (b) may examine under oath or otherwise the applicant or other witnesses as to any matter pertaining to the issue of the licence.

RSA 2000 cM-5 s14;2007 cV-4.1 s87;2020 c23 s10

Licence for remarriage: transitional provisions

15(1) When a previous marriage of an applicant for a licence has been dissolved by a decree of divorce or declared a nullity, an issuer shall not issue a marriage licence

- (a) until the 21st day after the date of entry of the final decree or of the order declaring the nullity, and
- (b) until the applicant produces to the issuer
 - (i) a certificate from the clerk of the Court of King's Bench that no appeal has been entered from the final decree or order declaring the nullity and that the time for appeal has expired, or
 - (ii) if an appeal has been entered, evidence satisfactory to the issuer that the appeal has been finally disposed of.

(2) Subsection (1) does not apply in the case of a final decree or declaration granted outside Alberta, but in that case the applicant shall produce to the issuer

- (a) a certificate of the dissolution or annulment or a decree absolute or decree of annulment or a certified notarial copy or photocopy thereof, or
- (b) other evidence of the divorce or annulment satisfactory to the Registrar.

(3) This section does not apply to a divorce, the petition or application for which was filed after July 1, 1968.

RSA 2000 cM-5 s15;2007 cV-4.1 s87;2009 c53 s108;AR 217/2022

Licence for remarriage

16(1) When a previous marriage of an applicant for a licence has been dissolved by a decree of divorce, the petition or application for which was filed after July 1, 1968, an issuer, on production by the applicant of the decree absolute of divorce, may issue a marriage licence to the applicant.

(2) Subsection (1) does not apply in the case of a final decree or declaration granted outside Alberta, the petition or application for which was filed after July 1, 1968 but in that case the applicant shall produce to the issuer

(a) evidence that the petition or application for divorce was filed after July 1, 1968, together with a certificate of the dissolution or decree absolute or a certified notarial copy or photocopy thereof, or

(b) other evidence of the divorce satisfactory to the Registrar.

RSA 2000 cM-5 s16;2007 cV-4.1 s87;2009 c53 s108

Marriage of persons under 16

17(1) No person shall

(a) issue a marriage licence for, or

(b) solemnize the marriage of,

any person under the age of 16 years.

(2) Repealed 2016 c26 s61.

RSA 2000 cM-5 s17;2016 c26 s61

Marriage of persons under 18

18(1) If either of the applicants for a licence is under the age of 18 years, and if the consent of any person to the marriage is required under section 19, the issuer shall not issue the licence until with respect to the applicant under 18 years of age there is deposited with the issuer every consent, if any, required under section 19 or an order under section 20 dispensing with that consent.

(2) In a case to which subsection (1) applies, the issuer shall send, by mail, a notice to all persons who may give the required consent, stating that a marriage licence has been applied for, the name and address of each of the applicants and the requirements of this Act with respect to consent, unless

(a) every required consent or an order dispensing with that consent has been deposited with the issuer, or

(b) other arrangements, satisfactory to the issuer, are made to obtain the required consents.

(3) The Registrar, in the Registrar's discretion, may authorize an issuer to accept and act on any document that does not comply with the requirements of the regulations with respect to the form and content of a consent but that, in the circumstances, shows to the satisfaction of the Registrar that consent to the marriage is given.

RSA 2000 cM-5 s18;2007 cV-4.1 s87

Consent

19(1) Subject to this section, the consent of each guardian of a person under 18 years of age is required, in a form set by the Registrar, in order for that person to marry.

(2) Notwithstanding subsection (1),

(a) the requirement for the consent of a guardian in subsection (1) is subject to any limitation imposed by law on the authority of the guardian, and

(b) if a guardian is mentally incompetent, consent of that guardian is not required.

(3) The exceptions set out in subsection (2) are subject to any proof of the facts that the issuer may require from the applicant.

RSA 2000 cM-5 s19;2003 cF-4.5 s120;2003 c16 s117;2020 c23 s10

Order dispensing with consent

20(1) A person

(a) who is 16 years of age or older but under 18 years of age, and

(b) who is unable to obtain the consent of a guardian required under section 19,

may, on notice to the guardian, apply to the Court of King's Bench, and the Court may in its discretion grant an order dispensing with the consent.

(2) Repealed 2022 c14 s8.

(3) On application, the Court may make an order

(a) for substituted service of the notice,

(b) for substitutional service on any person, or

(c) dispensing with service,

if it considers that prompt service of the notice is for any reason unlikely.

RSA 2000 cM-5 s20;2003 cF-4.5 s120;2022 c14 s8;AR 217/2022

Petition for presumption of death

21(1) A married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present an application to the Court of King's Bench to have it presumed that the other party is dead, and the Court, if satisfied that reasonable grounds exist, may make a decree of presumption of death.

(2) In any proceedings referred to in subsection (1), the fact that for a period of 7 years or more the other party to the marriage has been continually absent from the applicant and the applicant has no reason to believe that the other party has been living within that time is evidence that the other party is dead until the contrary is proved.

(3) A decree of presumption of death made by the Court of King's Bench under subsection (1) must contain particulars of the following information to the extent that those particulars have been established to the satisfaction of the Court:

(a) the full name of the person presumed dead, including a maiden or married name where applicable;

(b) the sex of the person presumed dead;

- (c) the place where death is presumed to have occurred;
- (d) the date on which death is presumed to have occurred.

RSA 2000 cM-5 s21;2007 cV-4.1 s87;2009 c53 s108;AR 217/2022

Voiding marriage of minors

22(1) The consents required under section 19 and the medical certificate required under sections 17 and 20 are a condition precedent to the valid marriage of a person under 18 years of age, and when a form of marriage is solemnized between persons, either of whom is under 18 years of age without a required consent or medical certificate, the marriage is void unless

- (a) carnal intercourse has taken place between the parties prior to the ceremony,
- (b) the marriage has been consummated, or
- (c) the parties have, after the ceremony, cohabited and lived together as spouses.

(2) When a marriage is void under subsection (1), the Court of King's Bench has jurisdiction and power to entertain an action by the person who was at the time of the ceremony under 18 years of age to declare and adjudge that a valid marriage was not effected and entered into, and the Court shall so declare and adjudge if it is made to appear

- (a) that a consent required under section 19 or a medical certificate required under section 17 or 20 was not obtained prior to the ceremony,
- (b) that
 - (i) carnal intercourse did not take place between the parties prior to the ceremony,
 - (ii) the marriage has not been consummated, and
 - (iii) the parties have not, after the ceremony, cohabited and lived together as spouses,
- and
- (c) that the action was brought before the person bringing it attained the age of 19 years.

RSA 2000 cM-5 s22;2014 c8 s14;AR 217/2022

Court may declare marriage lawful

23(1) A marriage is not invalidated by reason only of a contravention of or non-compliance with this Act

- (a) by the person who solemnized the marriage, or
- (b) by the person who issued the licence for the marriage,

and the Court of King's Bench may, if satisfied it is proper to do so, declare that the marriage was lawfully solemnized notwithstanding the contravention or non-compliance.

(2) An application for an order under subsection (1) may be made by

- (a) a party to the marriage,

(b) the Minister of Justice, or

(c) the Registrar,

either ex parte or on any notice that the Court directs.

RSA 2000 cM-5 s23;2007 cV-4.1 s87;2009 c53 s108;2013 c10 s34;

AR 217/2022;2022 c21 s53

Protection from actions

24 No person who solemnizes a marriage in conformity with this Act is subject to any action or liability for damage or otherwise by reason of there having been any legal impediment to the marriage unless at the time when the person performed the ceremony the person was aware of the impediment.

RSA 1980 cM-6 s24

Penalty for unlawfully performing marriage

25 If any person who, having been a member of the clergy, marriage commissioner or other person having the right to solemnize marriage, has been deposed from the person's ministry, or deposed or removed from the office by virtue of which the person was authorized to solemnize marriage, afterwards solemnizes or undertakes to solemnize a marriage, the person is guilty of an offence and liable to a fine of \$1000 or to imprisonment for a term of not more than 12 months or to both fine and imprisonment.

RSA 1980 cM-6 s25;1983 c86 ss9,14

Penalty for solemnizing marriage contrary to Act

26 A person who

(a) issues a marriage licence, or

(b) solemnizes a marriage,

contrary to this Act is guilty of an offence and liable to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

RSA 1980 cM-6 s26;1983 c86 s10

Capacity issues

27(1) Except as provided in subsection (2), no person shall issue a marriage licence when the person knows or has reason to believe that there is in effect with respect to a party to the intended marriage

(a) a guardianship order or trusteeship order under the *Adult Guardianship and Trusteeship Act* or equivalent legislation of another jurisdiction,

(b) a certificate of incapacity under the *Adult Guardianship and Trusteeship Act* or equivalent legislation of another jurisdiction, or

(c) a committee under *The Mentally Incapacitated Persons Act*, RSA 1970 c232, or equivalent legislation of another jurisdiction.

(2) If subsection (1) applies, an issuer may issue a marriage licence if

(a) an applicant, trustee or guardian provides proof to the issuer that the trustee or guardian has been given 30 days' notice prior to the issuance of the licence, and

(b) no trustee or guardian has served, on the issuer and on the Registrar, an originating notice concerning the issuance of the marriage licence.

(3) No person shall issue a marriage licence, or solemnize a marriage, if the person knows or has reason to believe that either of the parties to the intended marriage is, at the time of the application for the licence or at the time of the solemnization, as the case may be, under the influence of alcohol or a drug.

(4) A person who contravenes this section is guilty of an offence and liable to a fine of not more than \$1000 and in default of payment to imprisonment for a term not exceeding 30 days.

RSA 2000 cM-5 s27;2008 cA-4.2 s141;2016 c26 s62

Penalty for false statement

28 A person who knowingly makes a false statement in any document required under this Act, for which the person is not otherwise punishable on conviction, is guilty of an offence and liable to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

RSA 1980 cM-6 s28;1983 c86 s12

Regulations

29 The Minister may make regulations

(a) prescribing the fees to be paid for marriage licences;

(b) prescribing the forms to be used in carrying out this Act;

(c) prescribing the duties of, the procedures to be followed by, and the fees payable to issuers of marriage licences;

(d) authorizing the filing of special returns by an issuer of marriage licences in exceptional cases;

(e) prescribing the fee that may be charged for a marriage ceremony performed by a marriage commissioner;

(f) for the purpose of effectively securing the due observance of this Act, and generally for the better carrying out of its provisions and obtaining the information required by it.

RSA 1980 cM-6 s29;1983 c86 s13;1988 c30 s5;

1990 cM-14.3 s275;1996 c32 s6