

The Marriage Act, CCSM c M50

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The Marriage Act, C.C.S.M. c. M50

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

Definitions

1 In this Act

"approved form" means a form that is approved by, or acceptable to, the director; (« formule approuvée »)

"director" means the Director of Vital Statistics appointed under *The Vital Statistics Act*; (« directeur »)

"Family Court" means a Family Court established under Part III of *The Provincial Court Act*; (« tribunal de la famille »)

"issuer" means an issuer of marriage licences appointed or designated as provided in [section 10](#); (« administrateur »)

"member of the clergy" means any person qualified to be registered under [section 3](#); (« ecclésiastique »)

"minister" means the member of the Executive Council designated by the Lieutenant Governor in Council as the minister charged with the administration of this Act; (« ministre »)

"religious denomination" means an organized society, association, or body of religious believers or worshippers consisting of not less than 25 persons professing to believe in the same religious doctrines, dogma, or creed and closely associated or organized for religious worship or discipline or both. (« confession religieuse »)

[S.M. 2011, c. 35](#), s. 29.

Authority of clergy to solemnize marriages

2 If duly authorized as herein provided a person 18 years of age or more who is

(a) a member of the clergy, a rabbi, or an official of a religious denomination corresponding to a member of the clergy or a rabbi, duly ordained or appointed according to the rites and ceremonies of the religious denomination to which he belongs; or

(b) a representative of a religious denomination duly appointed or commissioned by the governing body of the religious denomination with special authority to solemnize marriages;

may solemnize the ceremony of marriage between any two persons not under a legal disqualification to contract the marriage.

[S.M. 2015, c. 43](#), s. 32.

Registration of authorized persons

3(1) The minister may, on application on an approved form by a qualified person, or, on behalf of a qualified person by the ecclesiastical authority of a religious denomination to which the qualified person belongs, register the person as authorized to solemnize ceremonies of marriage.

Refusal to register

3(2) If, in the opinion of the minister,

(a) a person is not qualified as provided in [section 2](#); or

(b) it is not in the public interest that the person should be registered;

the minister may refuse to register a person by whom or on whose behalf an application for registration is made.

Cancellation of registration

3(3) Where, in the opinion of the minister, a person registered under this Act

(a) has ceased to be qualified as provided in [section 2](#); or

(b) should not, in the public interest, continue to be registered;

the minister may cancel the registration of that person; and thereupon that person ceases to be qualified to solemnize ceremonies of marriage.

[S.M. 2011, c. 35](#), s. 29.

Register

4 The minister shall keep or cause to be kept a register of the names of persons registered under [section 3](#), and the date of each registration and, in the case of a cancellation of registration, the fact and date of the cancellation.

Certificate of registration

5 The minister may give a certificate of a registration or cancellation and may include any number of persons therein; and the certificate shall, without proof of the signature of the minister, be conclusive proof in any court or before a justice of the fact certified to be recorded in the register kept under [section 4](#).

Penalty

6 No marriage is invalid by reason only that the person performing the ceremony was not registered under this Act or that his registration had been cancelled; but any person performing, or purporting to solemnize, a ceremony of marriage who is not registered or otherwise authorized under this Act to solemnize ceremonies of marriage is guilty of an offence and liable on summary conviction to a fine of \$100.

Appointment of marriage commissioners

7(1) The minister may appoint any person more than 18 years of age as a marriage commissioner for the province or any part thereof specified by the minister and the person may solemnize ceremonies of marriage in accordance with the tenor of the appointment.

Fee of marriage commissioners

7(2) A marriage commissioner who solemnizes a ceremony of marriage is entitled to a fee and expenses as prescribed in the regulations to be paid by the parties to the marriage.

Form of marriage ceremony

7(3) No particular form of ceremony is required in a ceremony of marriage solemnized by a marriage commissioner except that in some part of the ceremony, and in the presence of witnesses and of the marriage commissioner, each of the parties shall declare, "I do solemnly declare that I do not know of any lawful impediment why I, A.B., may not be joined in matrimony to C.D." and each of the parties shall say to the other, "I call upon these persons here present to witness that I, A.B., do take thee, C.D., to be my lawful wedded (wife/husband/spouse)".

[S.M. 1989-90, c. 90](#), s. 25; [S.M. 2008, c. 42](#), s. 62.

Licence or banns required for marriage

8(1) Subject as herein provided, no person authorized to solemnize ceremonies of marriage under this Act shall solemnize or perform a ceremony of marriage between two persons unless

- (a) authorized so to do by a licence issued under the hand of the director; or
- (b) banns declaring the intention of the two persons to intermarry have been published as herein provided.

Requirements respecting publication of banns

8(2) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly, at least once, in an audible voice during divine service

- (a) where the parties are in the habit of attending worship at the same church, being in Manitoba, at that church; or
- (b) where the parties are in the habit of attending worship at different churches in Canada, at least one of which is in Manitoba, in each of those churches.

Time and manner of publication

8(3) Every publication of banns shall be made according to the usage of the denomination of the church in which they are published, and shall, subject to subsection (4), be

made on a Sunday at least seven clear days before the marriage, immediately before divine service begins, immediately after it ends, or at some intermediate part thereof.

Publication on day other than Sunday

8(4) Where the usage of any denomination substitutes any day other than Sunday as the usual and principal day of the week for the celebration of divine service, banns published in a church of that denomination shall be published on that other day.

Completion of certificate of publication, etc.

8(5) A person who publishes banns or dispenses with the publication thereof under subsection (7) shall complete and sign a certificate of the publication or of the dispensation on an approved form; and the certificate shall show the official position of the person who signs it.

Delivery of certificate

8(6) No marriage shall be solemnized under the authority of publication of banns, or of a dispensation with such publication, until a certificate mentioned in subsection (5) relating to the intended marriage is delivered to the person solemnizing it.

Dispensation of publication, effect of and fee for

8(7) The head of the church or congregation to which one of the parties belongs may grant a dispensation of publication of banns, according to the rites and usages of the church or congregation; and the dispensation shall have the same effect as a marriage licence issued under this Act; and the same fee exacted for a marriage licence shall be payable to the Minister of Finance in connection with the dispensation.

Meaning of "church"

8(8) In this section, unless the context otherwise requires, the word "**church**" includes chapel, meeting house, or place set aside for public religious worship.

S.M. 2011, c. 35, s. 29.

Limitations as to times

9(1) No marriage shall be solemnized under the authority of any proclamation of intention to marry unless the proclamation has been made at least seven clear days previously, nor unless the marriage takes place within three months after the day upon which the proclamation

was made; nor shall a marriage be solemnized under the authority of any licence unless within three months after the date thereof.

Waiting period

9(2) No person authorized to solemnize ceremonies of marriage shall solemnize a ceremony of marriage for which a marriage licence has been issued until 24 hours after the marriage licence therefor was issued unless satisfied from evidence adduced that there are exceptional circumstances rendering it advisable and proper to do so.

Witnesses necessary

9(3) No member of the clergy or other person shall solemnize a marriage without the presence of at least two credible witnesses. Two or more of which witnesses shall affix their names as witnesses to the statement of marriage form under *The Vital Statistics Act*.

Issuer of licence not to marry

9(4) Subject to subsection (5), and except where the person solemnizing a marriage is the Registrar or a deputy registrar of the Court of King's Bench, no member of the clergy or other person who is an issuer shall solemnize the ceremony of marriage in any case in which that person issued the licence authorizing the marriage.

Exceptional cases

9(5) Where in unorganized areas of the province unwarranted delay in the solemnization of a marriage would be occasioned, the Lieutenant Governor in Council may authorize any member of the clergy to solemnize marriages for which the member of the clergy has himself issued the licence.

Duties of clergy after solemnizing the marriage

9(6) The licence to marry or the certificate of publication of intention to marry or of dispensation thereof, where the certificate is required, shall be left with the member of the clergy or other person who solemnizes the marriage who shall forthwith after the solemnization endorse upon the certificate or licence the date of the marriage and thereupon forward the certificate or licence to the director at Winnipeg.

[S.M. 1994, c. 20](#), s. 13; [S.M. 2011, c. 35](#), s. 29.

Appointment of issuers of marriage licences

10(1) The minister may appoint as issuers of marriage licences such number of persons as is deemed necessary.

K.B. registrar and deputy registrar as issuers

10(2) The registrar and each deputy registrar of the Court of King's Bench are issuers of marriage licences.

Title of issuers

10(3) Each issuer shall be known and described as "Issuer of Marriage Licences".

Issuers previously appointed

10(4) An issuer of marriage licences appointed prior to the coming into force of this subsection shall continue to act as an issuer of marriage licences until the appointment is revoked hereunder.

Supply of licence forms

11 The director shall sign and furnish to each issuer such number of marriage licences as may be required.

Issue of licences

12 Each issuer may, in accordance with this Act, issue marriage licences to persons requiring them.

Once issued remain valid

13 Every licence furnished by the director under [section 11](#) is and shall remain valid, notwithstanding that the director has ceased to hold office before the time of the issue of the licence under [section 12](#).

Mechanically reproduced signature permitted

14 The signature of the director on each marriage licence may be printed, engraved, lithographed, or otherwise mechanically reproduced and when so reproduced, is valid in all cases.

Penalty for unauthorized issue of licence

15 Any person not an issuer who issues a marriage licence is guilty of an offence and is liable on summary conviction to a fine of \$100 in respect of each licence so issued.

Return of unissued licences

16 Every issuer, or any other person having the possession, power or control of unissued licences shall, whenever required, transmit to the director every such licence; and the property in all unissued licences shall be and remain in Her Majesty.

Issuer to pay expenses

17 All expenses incidental to providing licences shall be paid by the issuer of the licences.

Where party to marriage is under 18

18(1) Where a party to an intended marriage is under the age of 18 years, no person knowing or having been informed of the age of that party shall issue a marriage licence for the marriage, publish banns in respect of the marriage, grant dispensation of the publication of banns in respect of the marriage, or solemnize the marriage, unless

(a) the party is a widowed spouse or divorced; or

(b) if the party is over the age of 16 years and if custody of the party has not been granted to an agency or the Director of Child and Family Services, or some other person, pursuant to an order of a court of competent jurisdiction, consent to the marriage of the party is given

(i) by the parents of the party, if living, or

(ii) if a parent of the party is dead, by the surviving parent, or

(iii) if the parents of the party are living separate and apart, by the parent with whom the party is living, or

(iv) if one parent of the party has had a committee appointed for him or her under *The Mental Health Act* or, in the opinion of the attending physician, is incapable of giving consent, by the other parent of the party, or

(v) if both parents of the party are dead or are prevented from giving consent to the marriage for any of the reasons mentioned in sub-clause (iv), by the guardian of the party; or

(c) if the party is over the age of 16 years and custody of the party has been granted to an agency or to the Director of Child and Family Services consent to the marriage of the party is given by the Director of Child and Family Services; or

(d) consent to the marriage is given by a judge of the Family Court.

Production and proof of consent

18(2) Where a consent is required under subsection (1), it shall be produced to the person issuing the marriage licence, publishing the banns, granting dispensation of the publication of banns, or solemnizing the marriage, as the case may require, and he shall satisfy himself of the genuineness of the consent.

Form of consent

18(3) A consent required under clause (1)(b) shall be in writing signed by the person giving it and verified by the affidavit or statutory declaration of that person indicating the authority on which the consent is given.

[S.M. 1998, c. 36, s. 131](#); [S.M. 2002, c. 24, s. 39](#); [S.M. 2008, c. 42, s. 62](#).

Application for consent by judge

19(1) Where a party to an intended marriage is under the age of 18 years, a judge of the Family Court may, upon application of either of the parties to the intended marriage or of a parent or guardian of either of them, and upon notice to such persons and in such manner as the judge may require, consent to the intended marriage of the party.

Form of consent

19(2) A consent given under subsection (1) shall be in writing signed by the judge giving it.

Appeal from judge

19(3) Either of the parties to the intended marriage or any parent or guardian of either of the parties to the intended marriage or any other person notified under subsection (1) of the application for the consent may appeal the giving or refusal of the consent by a judge to the Court of King's Bench and the provisions of *The Provincial Offences Act* respecting appeals apply with the necessary modifications to the appeal as though it were an appeal from a conviction or dismissal by a justice.

Disposition of appeal

- 19(4)** The court hearing an appeal under this section may
- (a) give the consent for which application was made; or
 - (b) refuse the consent; or
 - (c) confirm or vary any decision of the judge of the Family Court; or
 - (d) make such other order as it considers to be in the best interest of the party.

[S.M. 2005, c. 8, s. 12](#); [S.M. 2013, c. 47, Sch. A, s. 132](#).

Marriages of persons with committees

20(1) Where a committee has been appointed under *The [Mental Health Act](#)* for a party to an intended marriage, no person knowing or having been informed of that fact shall issue a marriage licence for the marriage, publish banns in respect of the marriage, grant dispensation of the publication of banns in respect of the marriage, or solemnize the marriage except upon production of a certificate issued under subsection (2).

Certificate of mental capacity

20(2) Notwithstanding that a committee has been appointed under *The [Mental Health Act](#)* for a party to an intended marriage, a psychiatrist may certify in writing that the party has the capacity to understand the nature of the contract of marriage and the duties and responsibilities which it creates.

Penalty

20(3) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

[S.M. 1998, c. 36, s. 131](#).

Affidavit before issue of licence, etc.

21(1) Before a licence is issued by an issuer or before any proclamation of intention to marry is made or any dispensation of such a proclamation granted, both the parties to the intended marriage shall personally attend at the same time before the issuer or the member of the clergy or other person making the proclamation of intention to marry, or the head of the church or congregation dispensing with such a proclamation and, after first being examined separately, shall each, in the presence of the other, severally make a statutory declaration stating

- (a) in what municipality or district it is intended that the marriage be solemnized, and in what town, village, or place in the municipality or district;

(b) that he or she believes there is no consanguinity, prior marriage, or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(c) the age of the deponent, and that the other contracting party is of the full age of 18 years or the age of the other contracting party, if under the age of 18 years, as the case may be;

(d) the condition in life of the parties, whether never married, widowed or divorced.

Additional facts to be stated

21(2) Each of the parties to the intended marriage shall, by statutory declaration, state such further facts as are necessary to enable the issuer or head of the church or congregation or member of the clergy or other person making the proclamation of intention to marry or granting the dispensation to judge whether the required consent has been duly given in the case of any party under the age of 18 years, or whether such a consent is necessary.

Form

21(3) The statutory declaration shall be made before the issuer or, in the case of a dispensation of banns, before the head of the church or congregation to which the applicant belongs, or, in the case of a proclamation of intention to marry, before the member of the clergy or other person who makes the proclamation.

Evidence to be sent to department

21(4) The member of the clergy or other person making the proclamation of intention to marry, or the head of the church or congregation dispensing with the publication of banns, shall forward to the director, at Winnipeg, the statutory declaration and any such further evidence of the facts which must be established before proceeding, together with the written consent to the marriage where the consent is necessary.

[S.M. 1993, c. 48](#), s. 25; [S.M. 1994, c. 20](#), s. 13; [S.M. 2008, c. 42](#), s. 62; [S.M. 2011, c. 35](#), s. 29.

Proof of age

22 Where any person authorized under this Act to issue a licence, to publish banns, to dispense with the publication of banns, or to solemnize a ceremony of marriage, is not satisfied that both the parties to the intended marriage are over the age of 16 years, or over the age of 18 years, as the case may be, he may require the parties to produce duly authenticated certificates of births or, if such certificates are not available, other satisfactory evidence of their ages.

Definition of "order"

23(1) In this section "**order**" means an order made under *The Presumption of Death Act* (now repealed) or *The [Presumption of Death and Declaration of Absence Act](#)* declaring that a person shall be presumed to be dead

(a) for all purposes; or

(b) for the purpose of allowing the spouse of that person to obtain a marriage licence or to be a party to a ceremony of marriage; or

(c) for purposes that include the purpose mentioned in clause (b).

Form of statutory declaration where spouse presumed dead

23(2) A person who has obtained an order under subsection (1) and who is required to make a statutory declaration under [subsection 21\(1\)](#) may, upon production of the order or a certified copy thereof, omit from the statutory declaration the statement of belief that there is no prior marriage required by [clause 21\(1\)\(b\)](#) and the description of the applicant's condition in life required by [clause 21\(1\)\(d\)](#).

Statutory declaration of other parties

23(3) The other party to the intended form of marriage mentioned in subsection (2) shall by statutory declaration made under [subsection 21\(1\)](#) state that there is, on that party's part, no prior marriage to bar or hinder the solemnization of the form of marriage.

Order to be forwarded

23(4) The person required to send to the director the documents required under [subsection 21\(4\)](#) shall forward therewith the order or certified copy produced under subsection (2).

[S.M. 2019, c. 20, s. 14.](#)

Memorandum on back of declaration

24(1) Upon the back or at the foot of the printed forms of statutory declarations to be made by the parties shall be printed a memorandum showing the degrees of consanguinity which bar or hinder the solemnization of marriage; and no statutory declaration shall be acted upon by the issuer or member of the clergy or head of the church or congregation which does not have the memorandum printed thereon.

Duty of issuer, clergy, etc.

24(2) The issuer, member of the clergy, other person or head of the church or congregation, before administering the oath to the applicant, shall see that the applicant is aware what degrees of consanguinity are a bar to the solemnization of marriage.

Form of memorandum

24(3) The memorandum to be printed upon the back or at the foot of the printed forms of affidavits shall be as set forth in Schedule A.

Provision for change in Schedule A

24(4) If at any time hereafter any changes are made in the law affecting the degrees of relationship within which marriage may be lawfully contracted, the Lieutenant Governor in council may direct such changes to be made in Schedule A, as are required to make it conformable to the law for the time being.

[S.M. 1993, c. 48](#), s. 25.

Compliance with sections 18, 19 and 20

25(1) Where the person having authority to issue the licence, or the member of the clergy or other person having authority to make the proclamation of intention to marry, or the head of the church or congregation having authority to grant a dispensation of such proclamation, has personal knowledge that the facts are not as [sections 18, 19, and 20](#) require, no licence shall be issued, proclamation made, or dispensation granted; and, if there is any reason to believe or suspect that the facts are not as required by those sections, the person before proceeding shall require further evidence in addition to the affidavit to establish the facts to that person's satisfaction.

Evidence to be sent department

25(2) Any statutory declaration or other evidence shall be forwarded to the director by the person who required its production.

Hours for issue of licence

25(3) No licence shall be issued between the hours of 11 o'clock in the afternoon and 6 o'clock in the forenoon by any issuer unless satisfied from evidence adduced that the proposed

marriage is legal and that exceptional circumstances exist which render the issue of the licence advisable.

Fees for licences

26 Every issuer shall pay to the minister, in advance, such amount for each licence as may be prescribed in the regulations and the issuer is entitled to demand and receive such amount for each licence as may be prescribed in the regulations from the person requiring the licence.

Certain objections not valid

27 It is not a valid objection to the legality of a marriage that it was not solemnized in a consecrated church or chapel, or within any particular hours.

28 [Repealed]

[S.M. 1993, c. 48](#), s. 25.

Validating marriages where no legal disqualification

29 Every marriage solemnized between persons not under a legal disqualification to contract such a marriage shall be deemed a valid marriage in respect of all matters within the jurisdiction of the Legislature where

(a) the parties after the solemnization lived together and cohabited as spouses for one year or until the death of one of the parties whichever first occurs;

(b) the validity of the marriage has not been questioned before the expiry of one year or the death of one of the parties in any legal action; and

(c) neither of the parties to the marriage has previous to the expiration of the one year or the death of one of the parties contracted matrimony according to law;

notwithstanding that the member of the clergy or other person who solemnized the marriage was not duly authorized to do so or that there was any irregularity or insufficiency in, or an absence of, the proclamation of intention to intermarry, the dispensation thereof or the issue of a marriage licence.

[S.M. 2008, c. 42](#), s. 62.

No judgment by consent or in default

30(1) A declaration that a valid marriage was not effected or entered into shall not in any case be made upon consent of parties, admissions, or in default of appearance or of pleading or otherwise than after a trial.

Evidence to be viva voce in open court

30(2) At every trial the evidence shall be taken viva voce in open court, but nothing in this subsection prevents the use of the depositions of witnesses residing out of Manitoba or of witnesses examined de bene esse, where, according to the practice of the court, such depositions may be read in evidence.

Court may require examination of parties

30(3) The court may require both or either of the parties to be examined before the court touching the matters in question in the action, and may require either party to submit to physical examination by a duly qualified medical practitioner to be appointed by the court.

Responsibility of clergy

31 No member of the clergy who performs any marriage ceremony, after banns published or duly dispensed with, or after a licence under this Act issued, is subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless at the time when the ceremony was performed, the member of the clergy was aware of the existence of the impediment.

Penalty for false statement

32(1) Every person who wilfully makes, or causes to be made, a false statement touching the particulars required to be recorded or reported under this Act, is guilty of an offence.

General penalty

32(2) Every person guilty of an act or omission in violation of any provision of this Act, for which no other penalty is provided, is liable on summary conviction to a fine of \$100.

Limitation on prosecution

32(3) No prosecution for an offence against this Act or the regulations shall be commenced after the expiration of one year from the date on which the offence occurred.

Fiat of Attorney-General

32(4) No prosecution for an offence under this Act shall be brought without the permission of the Attorney-General of Manitoba.

Regulations

- 33** The Lieutenant Governor in Council may make regulations
- (a) prescribing the fee to be paid by issuers of a marriage licence to the government and the fee to be paid by the person requiring the marriage licence;
 - (b) [repealed] [S.M. 2011, c. 35](#), s. 29;
 - (b.1) prescribing fees in respect of registrations or appointments under this Act and requiring them to be paid;
 - (c) prescribing the fees and expenses to which a marriage commissioner is entitled for solemnizing a ceremony of marriage.

[S.M. 2011, c. 35](#), s. 29; [S.M. 2017, c. 40](#), s. 86.

SCHEDULE A

(Section 24)

Degrees of consanguinity which bar the lawful solemnization of marriage.

A person may not marry his or her grandparent, parent, child, grandchild or sibling.

The relationships set forth in this Schedule include all such relationships, whether by the whole or half-blood or by order of adoption.

[S.M. 2008, c. 42](#), s. 62.

NOTE: [Sections 2 to 4](#) of the *Marriage (Prohibited Degrees) Act*, *Statutes of Canada 1990*, chapter 46 provide as follows:

2(1) Subject to subsection (2), persons related by consanguinity, affinity or adoption are not prohibited from marrying each other by reason only of their relationship.

2(2) No person shall marry another person if they are related lineally, or as brother or sister or half-brother or half-sister, including by adoption.

[S.M. 2008, c. 42](#), s. 62.

3(1) Subject to subsection (2), a marriage between persons related by consanguinity, affinity or adoption is not invalid by reason only of their relationship.

3(2) A marriage between persons who are related in the manner described in subsection 2(2) is void.

[S.M. 2008, c. 42](#), s. 62.

4 This Act contains all of the prohibitions in law in Canada against marriage by reason of the parties being related.

Schedule A was amended by Manitoba Regulation 255/91 pursuant to [subsection 24\(4\)](#) of *The Marriage Act*.