

CONSOLIDATION OF MARRIAGE ACT
R.S.N.W.T. 1988,c.M-4

(Current to: November 9, 2007)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.104(Supp.)

S.N.W.T. 1995,c.11

S.N.W.T. 1998,c.17

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

c.	means "chapter".
CIF	means "comes into force".
NIF	means "not in force".
s.	means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
Sch.	means "schedule".
SI-005-98	means the instrument registered as SI-005-98 in 1998. (<i>Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.</i>)
SI-012-2003	means the instrument registered as SI-012-2003 in 2003. (<i>Note: This is a Nunavut statutory instrument made on or after January 1, 2000.</i>)

Citation of Acts

R.S.N.W.T. 1988,c.D-22	means Chapter D-22 of the Revised Statutes of the Northwest Territories, 1988.
R.S.N.W.T. 1988,c.10(Supp.)	means Chapter 10 of the Supplement to the <i>Revised Statutes of the Northwest Territories, 1988</i> . (<i>Note: The Supplement is in three volumes.</i>)
S.N.W.T. 1996,c.26	means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
S.Nu. 2002,c.14	means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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SCHEDULE

MARRIAGE ACT

INTERPRETATION

Definitions

1. In this Act,

"issuer" means a person appointed under section 27 to issue licences; (*délivreur de licences*)

"licence" means a marriage licence issued under this Act; (*licence*)

"marriage commissioner" means a person who is not a member of the clergy, who is appointed under subsection 5(1) or authorized by subsection 5(2) to solemnize marriage; (*commissaire aux mariages*)

"member of the clergy" means a person duly ordained or appointed by his or her religious body and authorized by this Act to solemnize marriage; (*ecclésiastique*)

"religious body" includes a church, religious denomination, sect, congregation or society. (*groupement religieux*)

REGISTRATION OF MEMBERS OF THE CLERGY

Register

2. (1) Subject to subsection (2), the Minister shall keep a register of the names of the members of the clergy who permanently reside in the Territories and whose names have been submitted to the Minister by the ecclesiastical authorities of the religious bodies in which they are ordained or by which they are appointed.

Registration of members of the clergy

(2) The Minister

- (a) shall decide whether a religious body, from which the Minister receives a certified list of the names of its members of the clergy resident in the Territories, is established both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage as to warrant the registration of its members of the clergy under this Act; and
- (b) may refuse to register the names of members of the clergy submitted by a religious body generally or the names of any particular member of the clergy.

Certificates

(3) The Minister shall issue a certificate of registration to each member of the clergy registered under subsection (1) and each person registered under subsection 2.1(1).

Members of the clergy who are temporarily resident

(4) Subject to subsection (2), the Minister may register members of the clergy who are temporarily resident in the Territories and whose names have been submitted by their religious body and may issue certificates of registration to these members of the clergy to be valid for the period fixed by the Minister and named in the certificate.
R.S.N.W.T. 1988,c.104(Supp.),s.3; S.N.W.T. 1995,c.11,s.34.

Person designated where no person is authorized to solemnize marriage

2.1. (1) Where a religious body does not authorize any person to solemnize a marriage, the Minister may register a person designated by the governing authority of the religious body who shall, in respect of a marriage performed according to the rites, usages and customs of the religious body, perform all the duties imposed by this Act or the regulations on a person solemnizing or performing a marriage, other than solemnizing a marriage.

Deemed clergyman

(2) A person registered under subsection (1) is deemed to be a member of the clergy for the purposes of this Act.

Valid marriage

(3) Where a person registered under subsection (1) performs the duties imposed by or under subsection (1), every marriage performed according to the rites, usages and customs of the religious body is valid and deemed to be solemnized under this Act.
R.S.N.W.T. 1988,c.104(Supp.),s.4.

Duty of religious bodies

3. The proper ecclesiastical authorities of each religious body whose members of the clergy are authorized to solemnize marriage or that designate a person to perform the duties imposed by or under subsection 2.1(1) shall

- (a) annually or more often, if required by the Minister, supply the Minister with a certified list in Form A or A.1 of the Schedule of members of the clergy to be registered; and
- (b) notify the Minister of every member of the clergy who has died or who has ceased to reside in the Territories or who has in any other way ceased to possess the qualifications required for registration.
R.S.N.W.T. 1988,c.104(Supp.),s.5.

Cancellation of registration

4. The Minister may at any time as the result of information received by the Minister under section 3, strike the name of a member of the clergy off the register and cancel his or her certificate of registration.

MARRIAGE COMMISSIONERS

Appointment

5. (1) The Minister may appoint marriage commissioners with authority to solemnize civil marriages under this Act.

Justices of the peace

(2) Every justice of the peace is *ex officio* a marriage commissioner.

Fee

6. A marriage commissioner is entitled to a fee of \$5 for each marriage solemnized by him or her under this Act.

SOLEMNIZATION OF MARRIAGE

Persons qualified to solemnize marriage

7. (1) Every member of the clergy who holds a valid certificate of registration under this Act and every marriage commissioner may solemnize marriage in the Territories between persons not under a legal disqualification to contract marriage.

Prohibition

(2) No person other than a member of the clergy or marriage commissioner shall solemnize a marriage in the Territories.

Preliminaries

8. (1) No member of the clergy shall solemnize a marriage unless the parties to the intended marriage produce to him or her a licence or, where banns are published in place of a licence, unless the provisions of this Act relating to the publication of banns have been complied with.

Production of licence

(2) No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him or her a licence.

Authorization for marriage performed under section 2.1

8.1. (1) A person who proposes to be married according to the rites, usages and customs of a religious body referred to in section 3.1 shall obtain authorization to so marry from a person registered under subsection 3.1(1) prior to the day the marriage is performed.

Production of licence where marriage performed under section 2.1

(2) Where a marriage is to be performed according to the rites, usages and customs of a religious body referred to in section 2.1, a person registered under subsection 2.1(1) shall not authorize the performance of the marriage or perform any of the duties imposed by or under section 2.1 unless the parties to the intended marriage produce to him or her the licence required by this Act. S.N.W.T. 1988,c.104(Supp.),s.6.

Time limit

9. No marriage shall be solemnized unless it takes place within three months after the second publication of the banns or within three months after the issue of a licence.

Presence of witnesses

10. No marriage shall be solemnized unless at least two credible adult witnesses are present at the ceremony in addition to the contracting parties and the person, if any, performing the ceremony. R.S.N.W.T. 1988,c.104(Supp.),s.7.

Hours for solemnization

11. No marriage shall be solemnized between the hours of 10 p.m. and 6 a.m. unless the officiating member of the clergy who solemnizes the marriage or who performs the duties imposed by or under subsection 2.1(1) or the marriage commissioner is satisfied from evidence adduced to him or her that

- (a) the proposed marriage is lawful; and
- (b) exceptional circumstances exist that render its solemnization between those hours advisable.

R.S.N.W.T. 1988,c.104(Supp.),s.8.

Where party does not understand language used

12. (1) No member of the clergy or marriage commissioner shall solemnize a marriage where either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

Where party does not understand language and marriage performed under section 2.1

(2) Where a marriage is performed according to the rites, usages and customs of a religious body referred to in section 2.1 and either of the contracting parties does not speak or understand the language in which the ceremony is to be performed, a person registered under subsection 2.1(1) shall ensure that an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

R.S.N.W.T. 1988,c.104(Supp.),s.9.

Civil marriage

13. Where a marriage ceremony is performed by a marriage commissioner

- (a) each of the parties to the marriage shall, in the presence of the marriage commissioner and the witnesses, make the following declaration:

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

- (b) each of the parties shall, in the presence of the marriage commissioner and the witnesses, say to the other party:

I call upon these persons here present to witness that I,, do take thee,, to be my lawful wedded (wife *or* husband).

Second ceremony

14. (1) Persons who, having been married in accordance with the provisions of this Act relating to civil marriage, wish a second ceremony for religious purposes may have that ceremony performed.

Status of second ceremony

(2) The second ceremony referred to in subsection (1) is supplemental to and does not supersede the prior civil marriage and shall not be registered as a marriage.

Prior licence

(3) The licence obtained for the prior civil marriage is sufficient for the purposes of the second ceremony and the second ceremony need not be performed within three months from the issue of the licence.

Registration of marriage

15. (1) Subject to subsection 14(2), every person who is authorized to solemnize marriage under this Act shall register every marriage solemnized by him or her in accordance with the *Vital Statistics Act*.

Registration of marriage performed under section 2.1

(1.1) Subject to subsection 14(2), on completion of a marriage performed in accordance with section 2.1, the person who performs the duties imposed by or under subsection 2.1(1) in respect of the marriage shall register the marriage in accordance with subsections 16(3.1) and (3.2) of the *Vital Statistics Act*.

Certificate of marriage

(2) On completion of the marriage ceremony, the officiating member of the clergy who solemnizes the marriage or who performs the duties imposed by or under subsection 2.1(1) or the marriage commissioner shall provide the contracting parties with a certificate of marriage. R.S.N.W.T. 1988,c.104(Supp.),s.10.

Liability

16. No member of the clergy or marriage commissioner is subject to an action or is liable for damage by reason of the existence of a legal impediment to the marriage unless, at the time he or she performed the ceremony, he or she was aware of the impediment.

Effect of lack of authority

17. (1) No marriage is invalid by reason only that the person who performed the ceremony or performed the duties imposed by or under subsection 2.1(1) was not then registered under this Act.

Idem

(2) No marriage is invalid by reason only that the person performing the ceremony was not then a marriage commissioner if both parties to the marriage believed, and had reasonable cause to believe, that he or she was.

R.S.N.W.T. 1988,c.104(Supp.),s.11.

PROHIBITIONS TO MARRIAGE

Consent

18. (1) No person shall perform a marriage ceremony where he or she knows or has reason to believe that either of the contracting parties is incapable of giving a valid consent.

Idem

(1.1) No person shall go through a form of marriage with any other person in the Territories if he or she knows or has reason to believe that such other person is incapable of giving a valid consent.

Application to Supreme Court

(2) Where a person refuses to perform a marriage ceremony pursuant to subsection (1), either of the contracting parties may apply, by originating notice, to the Supreme Court for a review of the decision and the Supreme Court may

- (a) confirm the decision; or
- (b) quash the decision and order that a marriage ceremony may be performed between the parties.

R.S.N.W.T. 1988,c.104(Supp.),s.12.

Communicable disease

19. No person shall marry in the Territories where

- (a) the person knows that he or she is suffering from a communicable disease in a communicable state; or
- (b) the person knows that the other contracting party is suffering from a communicable disease in a communicable state.

Liquor

20. (1) No person shall perform a marriage ceremony where the person knows or has reason to believe that either of the contracting parties is under the influence of liquor at the time of the ceremony.

Idem

(2) No person shall go through a form of marriage with any person in the Territories if he or she knows or has reason to believe that the person is under the influence of liquor at the time of the ceremony.

Party under age of 15 years

21. (1) No issuer shall issue a marriage licence and no member of the clergy shall perform a marriage ceremony or perform the duties imposed by or under subsection 2.1(1) where either of the contracting parties is under the age of 15 years unless there is provided to the issuer or member of the clergy

- (a) a certificate of a medical practitioner stating that the female contracting party is pregnant;

- (b) where no medical practitioner is available, other evidence, satisfactory to the issuer or member of the clergy that the female contracting party is pregnant; or
- (c) the written permission of the Minister to the issue of the marriage licence or to the performance of the marriage ceremony, as the case may be.

Minors

(2) A certificate, other evidence or the written permission of the Minister given under subsection (1) does not relieve any person from the requirements of this Act respecting consents to the marriage of minors. R.S.N.W.T. 1988,c.104(Supp.),s.13.

PUBLICATION OF BANNS

Licence

22. (1) Persons intending to marry do not require a licence where banns are published in accordance with this section.

Proclamation of intended marriage

(2) Intention to marry shall be proclaimed openly and in an audible voice during divine service at least once on two successive Sundays in the place of public worship in which both of the persons intending to marry have been attending worship or in some place of public worship of the religious body with which the member of the clergy who is to perform the marriage ceremony is connected in the local municipality, parish, circuit or pastoral charge where both of the persons intending to marry have, for the 15 days immediately preceding, had their usual place of residence.

Where Sunday not usual day of worship

(3) Where the practice or faith of a religious body substitutes Saturday or some other day as the usual and principal day of the week for the celebration of divine service, proclamation of banns may be made on two consecutive Saturdays or such other days.

Where parties do not reside in same place

(4) Where both of the persons intending to marry do not reside in the same local municipality, parish, circuit or pastoral charge, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, if within Canada, where the other of the contracting parties has, for the 15 days immediately preceding, had his or her usual place of residence and the marriage shall not be solemnized until there is delivered to the officiating member of the clergy a certificate in the prescribed form showing that the proclamation has been made.

Where service not regular

(5) Notwithstanding anything in this section, where, by reason of remoteness or otherwise, divine service by the member of the clergy who is to perform the marriage ceremony is not regularly held on successive Sundays, Saturdays or other days at a place in the Territories, intention to marry shall, at that place, be proclaimed openly and in an audible voice by that member of the clergy, at not less than two successive divine services, other than in the same day.

Statutory declaration

23. (1) Before publication of banns each of the persons intending to marry shall personally and separately make a statutory declaration in the prescribed form before the member of the clergy who is to proclaim the banns.

Degrees of affinity

(2) The degrees of affinity and consanguinity set out in the Schedule must be printed on the reverse side of the statutory declaration.

Powers of member of the clergy

(3) A member of the clergy who is to proclaim banns may take declarations and administer oaths for the purposes of this section.

Other documents

(4) Before publication of banns, where either of the persons intending to marry has been previously married or is a minor, the declarations, proofs, consents or other documents respecting previously married persons or minors required by this Act shall be provided by that person to the member of the clergy who is to proclaim the banns.

Transfer

(5) A member of the clergy who proclaims banns shall, where he or she is not also the member of the clergy who is to solemnize the marriage, transfer all documents received by him or her pursuant to this section to the member of the clergy who is to solemnize the marriage within 48 hours after the second publication of banns has been made.

Certificate of publication

24. Where either party to the intended marriage wishes a certificate of publication of banns, the member of the clergy who proclaims the banns, on payment to him or her of a fee of \$0.50, shall provide a certificate in the prescribed form.

Transmittal of documents

25. Within 48 hours after the solemnization of a marriage subsequent to the publication of banns, the officiating member of the clergy shall forward to the Minister

- (a) a certificate of the publication of banns in the prescribed form;
- (b) the statutory declarations in the prescribed form required by subsection 23(1); and

- (c) in respect of persons previously married or minors, the declarations, proofs, consents or other documents required by this Act to be provided to the officiating member of the clergy by the contracting parties or transferred to the officiating member of the clergy by the member of the clergy who proclaimed the banns.

Effect of irregularities

26. No irregularity or insufficiency in the proclamation of the intention to marry where banns are published or in the certificate of publication invalidates a marriage.

MARRIAGE LICENCES

Issuers

27. The Minister may appoint persons to issue licences under this Act.

Monthly returns

28. (1) Every issuer shall on the first day of every month make a return to the Minister of all licences issued by the issuer during the preceding month with the names of the persons to whom the licences were issued and shall forward to the Minister the statutory declaration in the prescribed form taken in each instance together with documents required to be deposited with the issuer respecting previously married persons or minors or any other documents required to be deposited with the issuer under this Act.

Powers of Minister

(2) The Minister may, in the discretion of the Minister, alter the periods in which returns must be made by an issuer or may order special returns to be made.

Fees

29. On application for a licence, the applicant shall pay the issuer the prescribed fee, which shall be distributed in the prescribed manner.

Deputy issuers

30. (1) An issuer who is prevented from acting by sickness may, with the approval of the Minister, appoint in writing, for a period not exceeding three months, a deputy issuer to act for the issuer in the absence of the issuer.

Signature by deputy issuer

(2) Every deputy issuer shall sign each licence issued by the deputy issuer in the following manner:

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

Powers and duties

(3) A deputy issuer has the same powers and duties as an issuer.

Declarations

31. An issuer may take declarations and administer oaths for the purposes of this Act.

Prohibition

32. No issuer or deputy issuer shall issue a licence for his or her own marriage.

Form of licences

33. (1) Licences must be in the prescribed form.

Completing form

(2) An issuer shall fill in the blanks and sign each licence at the time of issue.

Reading licence to parties

34. (1) An issuer shall satisfy himself or herself that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

Interpreter

(2) Where either of the parties to the intended marriage does not understand English, an independent interpreter shall be employed to explain the contents of the licence to that party.

Statutory declaration

35. (1) Before a licence is issued, each of the persons for whose marriage it is to be issued shall personally and separately make a statutory declaration in the prescribed form before the issuer.

Degrees of affinity

(2) The degrees of affinity and consanguinity set out in the Schedule must be printed on the reverse side of the statutory declaration.

Where resident party unable to attend

36. (1) Where either of the contracting parties is resident in the Territories but is unable to make the statutory declaration required by section 35 personally before the issuer, the issuer may permit that party to make a statutory declaration in the prescribed form before a justice of the peace, commissioner for oaths or notary public.

Contents and delivery of statutory declaration

(2) The statutory declaration permitted under subsection (1) must contain the reason relied on to excuse personal attendance before the issuer and shall be delivered to the issuer at least seven days before the issue of the licence.

Where party is not a resident

37. (1) Where one of the contracting parties resides outside the Territories and is unable personally to appear before the issuer, the issuer may, in his or her discretion, issue a licence on the statutory declaration in the prescribed form to be taken before the issuer by the other contracting party.

Time of declaration

(2) The statutory declaration under subsection (1) must be made at least seven days before the issue of the licence.

Time for issue of licence

38. No licence shall be issued between the hours of 10 p.m. and 6 a.m. unless the issuer is satisfied from evidence adduced to the issuer that

- (a) the proposed marriage is lawful; and
- (b) exceptional circumstances exist that render the issue of a licence between those hours advisable.

Effect of irregularity

39. No irregularity in the issue of a licence where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance of it.

PERSONS PREVIOUSLY MARRIED**Certificate of death of deceased spouse**

40. (1) Subject to subsection (2), where either of the parties intending to be married is a surviving spouse, he or she shall provide the member of the clergy proclaiming the banns or an issuer with a certificate of the death of the previous spouse issued under the *Vital Statistics Act* or the law respecting vital statistics of the place where the death is registered.

Affidavit in place of certificate

(2) Where a member of the clergy or issuer is satisfied that a surviving spouse cannot obtain a certificate of death of the previous spouse, he or she may accept as proof of death an affidavit made by a credible adult person who has knowledge of the death.

Nature of affidavit

- (3) An affidavit under subsection (2) must
 - (a) be made by a credible adult person other than either of the persons intending to marry; and
 - (b) be sworn before a justice of the peace, commissioner for oaths or notary public.

Application for presumption of death

41. (1) Where a previously married person cannot produce proof of death of his or her previous spouse and alleges that reasonable grounds exist for supposing that the previous spouse is dead, that person may present a petition to a judge of the Supreme Court for a declaration of presumption of death and the judge, if satisfied that such reasonable grounds exist, may make a declaration of presumption of death.

Evidence on petition

(2) On a petition under subsection (1), evidence, satisfactory to the judge of the Supreme Court, that

- (a) for at least seven years the previous spouse has been continually absent from the petitioner, and
 - (b) the petitioner has made reasonable inquiries and has no reason to believe that the previous spouse has been living within that period,
- is sufficient evidence in support of the petition.

Documents on re-marriage

(3) A previously married person who has obtained a declaration of presumption of death under this section and who wishes to marry again shall present a certified copy of the declaration to the member of the clergy proclaiming the banns or to an issuer, together with a statutory declaration in the prescribed form made by that person and a statutory declaration in the prescribed form made by the other contracting party of the intended marriage.

Where previous marriage dissolved or annulled in Territories

42. (1) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled in the Territories, that party shall provide the member of the clergy proclaiming the banns or an issuer with

- (a) a certificate of the dissolution or annulment obtained from an appropriate official under the *Vital Statistics Act*; or
- (b) a certified copy of the decree absolute or decree of annulment obtained from the Clerk of the Supreme Court and,
 - (i) where an appeal from such decree is permitted, a certificate from the Clerk of the Supreme Court showing that no appeal has been brought within the time limited for appeal and that the time has expired or that, if brought, the appeal has been dismissed, or
 - (ii) where an appeal from such decree is not permitted, a certificate from the Clerk of the Supreme Court so stating.

Where previous marriage dissolved or annulled outside Territories

(2) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled elsewhere than in the Territories, that party shall provide the member of the clergy proclaiming the banns or an issuer with a certificate of the dissolution or annulment, or the decree absolute or decree of annulment or a certified or notarial copy of it, obtained from a public or court official of the province, state or country in which the marriage was dissolved or annulled or of the Yukon Territory, if the marriage was dissolved or annulled in the Yukon Territory.

MINORS

Minor

43. (1) A party to an intended marriage who is under the age of 19 years is a minor within the meaning of this Act.

Consent

(2) Before the publication of banns or the issue of a licence, a minor shall deposit with the member of the clergy who is to proclaim the banns or with the issuer a consent to the marriage in the prescribed form.

Who may execute consent

- (3) A consent required under subsection (2) shall be executed
- (a) by all persons who have lawful custody of the minor, except those persons who are unable to consent by reason of disability; or
 - (b) by a person who is responsible for the care and upbringing of the minor, where no person has lawful custody of the minor or the persons who have lawful custody are unable to consent by reason of disability.

Condition precedent

(4) The consent required under subsection (2) is a condition precedent to a valid marriage, unless the marriage has been consummated or the contracting parties have, after the ceremony, cohabited as husband and wife. S.N.W.T. 1998,c.17,s.22(2).

Statutory declaration in place of consent

44. (1) The consent mentioned in subsection 43(2) is not required when a minor has attained the age of 18 years and deposits with the member of the clergy who is to proclaim the banns or with the issuer, a statutory declaration in the prescribed form made by the minor and sworn before a justice of the peace, commissioner for oaths or notary public.

Contents of statutory declaration

- (2) The statutory declaration referred to in subsection (1) must show
- (a) that no person has lawful custody of the minor;
 - (b) that any person who has lawful custody of the minor is not a resident of the Territories and that the minor has been a resident of the Territories for not less than 12 months immediately preceding the date of the declaration;
 - (c) that any person who has lawful custody of the minor is unable to consent by reason of disability; or
 - (d) that the minor has, for not less than six months immediately preceding the date of the declaration, withdrawn from the charge of the persons who have lawful custody of the minor and that the minor has not returned to such charge.
- S.N.W.T. 1998,c.17,s.22(3).

Order dispensing with consent

45. (1) Where any person whose consent is required under section 43 refuses to execute the consent, the minor may apply to a judge of the Supreme Court and the judge may, in the discretion of the judge, grant an order dispensing with the consent.

Depositing order

(2) Where an order is granted under subsection (1), the minor shall deposit the order or a certified copy of the order with the member of the clergy who is to proclaim the banns or with the issuer before the banns are published or a licence is issued.

S.N.W.T. 1998,c.17,s.22(4).

Birth certificate

46. Where the member of the clergy who is to proclaim the banns or the issuer is not satisfied that a minor is over the age of 15 years, he or she may require the minor to provide a birth certificate or, in place of a birth certificate, an affidavit showing the age of the minor made by a credible adult who has knowledge of the date of the birth of the minor.

VALIDITY OF CERTAIN MARRIAGES

Where registration dispensed with

47. Where it is made to appear by statutory declaration to the satisfaction of the Minister that a marriage has been solemnized in the Territories in good faith and in intended compliance with this Act and that, in ignorance of the requirements of this Act, the marriage was not registered and where

- (a) neither of the parties to the marriage was at that time under any legal disqualification to contract the marriage,
- (b) after the marriage the parties cohabited as husband and wife, and
- (c) the validity of the marriage has not been questioned by action in any court,

the Minister may in writing declare that the requirements of this Act as to registration are waived in respect of that marriage and that the marriage has been lawful and valid from the date of solemnization. R.S.N.W.T. 1988,c.104(Supp.),s.14.

Validity of marriage

48. (1) Where

- (a) a form of marriage is gone through between persons either of whom is a minor, without the consent required by this Act,
- (b) the marriage has not been consummated, and
- (c) the parties to the marriage have not, after the ceremony, cohabited as husband and wife,

a judge of the Supreme Court has jurisdiction to entertain an action by the contracting party who was at the time of the ceremony a minor and to declare and adjudge that a valid marriage was not effected or entered into.

Where intercourse before marriage

(2) A judge of the Supreme Court shall not declare a marriage void under subsection (1) where the judge is satisfied from evidence adduced to the judge that sexual intercourse had taken place between the parties before their marriage was solemnized.

Trial

(3) A judge of the Supreme Court shall not declare a marriage void on consent of the parties or in default of appearance or of pleading or otherwise than after a trial.

Evidence

(4) At every trial under subsection (1), the evidence shall be taken orally but the judge may permit the use of depositions of witnesses residing out of the Territories or of witnesses examined *de bene esse*.

Examination of parties

(5) A judge of the Supreme Court may order the examination of both or of either of the parties before the judge touching the matters in question in the action and may order either party to submit to a physical examination by a medical practitioner appointed for the purpose by the judge.

OFFENCES AND PUNISHMENT

Issuers

49. Every issuer who

- (a) issues a licence without first having obtained all the documents required by this Act,
- (b) issues a licence where either contracting party is prohibited from marrying under this Act,
- (c) fails to make a return or payment required by this Act, or
- (d) neglects or refuses to perform a duty that he or she is required by this Act to perform,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

Issue of licences by unauthorized persons

50. Every person who issues or purports to issue licences or issues any document purporting to be a marriage licence and who is not a duly appointed issuer is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.

Solemnizing marriage contrary to Act

51. Every person who solemnizes a marriage contrary to this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.

Performing ceremony after removal from office

52. (1) Every person who, having been a member of the clergy or marriage commissioner with authority to solemnize marriage, has been deposed or removed from his or her ministry or office and who solemnizes or undertakes to solemnize a marriage after he or she has been deposed or removed is guilty of an offence and liable of summary conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding 12 months.

Performing duties when no longer designated

(2) Every person registered under subsection 2.1(1) who is removed from office and who subsequently purports to perform the duties imposed by or under that subsection is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding 12 months. .S.N.W.T. 1988,c.104(Supp.),s.15.

False statements

53. Every person who wilfully makes or causes to be made a false statement of particulars required to be recorded or reported under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

General punishment

54. Every person who contravenes a provision of this Act for which no specific punishment is provided is guilty of an offence and liable on summary conviction to a fine not exceeding \$20.

Limitation period

55. A prosecution for an offence under this Act may not be commenced after two years from the time when the offence was committed.

Consent to prosecution

56. No prosecution for an offence under this Act shall be commenced until the permission of the Minister of Justice has been obtained.
R.S.N.W.T. 1988,c.104(Supp.),s.16.

REGULATIONS

Regulations

57. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the fee for a licence;
- (b) prescribing the manner in which a fee for a licence is to be distributed; and
- (c) prescribing the forms that by this Act are to be prescribed.

SCHEDULE

(Subsections 23(2), 35(2))

DEGREE OF AFFINITY AND CONSANGUINITY BETWEEN THE PARTIES THAT
BAR OR HINDER THE LAWFUL SOLEMNIZATION OF MARRIAGE BETWEEN
THEM*A man may not marry his:*

Grandmother
 Grandfather's wife
 Wife's grandmother
 Father's sister
 Mother's sister
 Wife's father's sister
 Wife's mother's sister
 Mother
 Step-mother
 Wife's mother
 Daughter
 Wife's daughter
 Son's wife
 Sister
 Son's daughter
 Daughter's daughter
 Son's son's wife
 Daughter's son's wife
 Wife's son's daughter
 Wife's daughter's daughter
 Brother's daughter
 Sister's daughter
 Brother's son's wife
 Sister's son's wife

A woman may not marry her:

Grandfather
 Grandmother's husband
 Husband's grandfather
 Father's brother
 Mother's brother
 Husband's father's brother
 Husband's mother's brother
 Father
 Step-father
 Husband's father
 Son
 Husband's son
 Daughter's husband
 Brother
 Son's son
 Daughter's son
 Son's daughter's husband
 Daughter's daughter's husband
 Husband's son's son
 Husband's daughter's son
 Brother's son
 Sister's son
 Brother's daughter's husband
 Sister's daughter's husband

The relationships set out in this table include all such relationships, whether by the whole or half blood.

Sections 2 and 3 of the *Marriage Act* (Canada) provide as follows:

2. A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man.
3. A marriage is not invalid merely because the man is a brother of a deceased husband of the woman, or a son of a brother or sister of a deceased husband of the woman.

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