

FOREIGN MARRIAGE ACT, 1892⁽¹⁾ (UNITED KINGDOM) IN ITS APPLICATION TO THE TERRITORY OF PAPUA.

An Act to consolidate Enactments relating to the Marriage of British Subjects outside the United Kingdom.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. All marriages between parties of whom one at least is a British subject solemnized in the manner in this Act provided in any foreign country or place by or before a marriage officer within the meaning of this Act shall be as valid in law as if the same had been solemnized in the United Kingdom with a due observance of all forms required by law.

Validity of marriages solemnized abroad in manner provided by Act.

2. In every case of a marriage intended to be solemnized under this Act, one of the parties intending marriage shall sign a notice, stating the name, surname, profession, condition, and residence of each of the parties, and whether each of the parties is or is not a minor, and give the notice to the marriage officer within whose district both of the parties have had their residence not less than one week then next preceding, and the notice shall state that they have so resided.

Notice to marriage officer of intended marriage.

3.—(1.) The marriage officer shall file every such notice, and keep it with the archives of his office, and shall also, on payment of the proper fee, forthwith enter in a book of notices to be kept

Filing in registry and posting up of notice.

(1) The *Foreign Marriage Act, 1892*, of the United Kingdom, in its application to the Territory of Papua, comprises the original *Foreign Marriage Act, 1892*, as amended by the other Acts referred to in the following Table:—

ACTS OF THE UNITED KINGDOM.

Citation of Act.	Date on which received Royal assent.	Date on which came into operation.
<i>Foreign Marriage Act, 1892</i> (55 & 56 Vic. C. 23)	27.6.1892	1.1.1893 (Sec. 25, <i>Foreign Marriage Act, 1892</i> —now repealed)
<i>Statute Law Revision Act, 1908</i> (8 Edw. VII, C. 49)	21.12.1908	21.12.1908 (Date of assent)
<i>Marriage (Extension of Hours) Act, 1934</i> (24 & 25 Geo. V, C. 13)	17.5.1934	17.5.1934 (Date of assent)

MARRIAGE AND DIVORCE—

by him for the purpose, and post up in some conspicuous place in his office, a true copy of every such notice, and shall keep the same so posted up during fourteen consecutive days before the marriage is solemnized under the notice.

(2.) The said book and copy posted up shall be open at all reasonable times, without fee, to the inspection of any person.

Requirement of like consent to marriage as in England, and power to forbid marriage.

4.—(1.) The like consent shall be required to a marriage under this Act as is required by law to marriages solemnized in England.

(2.) Every person whose consent to a marriage is so required may, at any time before the solemnization thereof under this Act, forbid it by writing the word “forbidden” opposite to the entry of the intended marriage in the book of notices, and by subscribing thereto his name and residence, and the character by reason of which he is authorized to forbid the marriage; and if a marriage is so forbidden the notice shall be void, and the intended marriage shall not be solemnized under that notice.

Caveat against marriages may be lodged with marriage officer.

5.—(1.) Any person may on payment of the proper fee enter with the marriage officer a caveat, signed by him or on his behalf, and stating his residence and the ground of his objection against the solemnization of the marriage of any person named therein, and thereupon the marriage of that person shall not be solemnized until either the marriage officer has examined into the matter of the caveat and is satisfied that it ought not to obstruct the solemnization of the marriage, or the caveat is withdrawn by the person entering it.

(2.) In a case of doubt the marriage officer may transmit a copy of the caveat, with such statement respecting it as he thinks fit, to a Secretary of State, who shall refer the same to the Registrar-General, and the Registrar-General shall give his decision thereon in writing to the Secretary of State, who shall communicate it to the marriage officer.

(3.) If the marriage officer refuses to solemnize or to allow to be solemnized in his presence the marriage of any person requiring it to be solemnized, that person may appeal to a Secretary of State, who shall give the marriage officer his decision thereon.

(4.) The marriage officer shall forthwith inform the parties of and shall conform to any decision given by the Registrar-General or Secretary of State.

When marriage not solemnized within three months a new notice required.

6. Where a marriage is not solemnized within three months next after the latest of the following dates—

(a) the date on which the notice for it has been given to and entered by the marriage officer under this Act, or

Foreign Marriage Act, 1892 (United Kingdom).

- (b) if on a caveat being entered a statement has been transmitted to a Secretary of State, or if an appeal has been made to a Secretary of State, then the date of the receipt from the Secretary of State of a decision directing the marriage to be solemnized,

the notice shall be void, and the intended marriage shall not be solemnized under that notice.

7. Before a marriage is solemnized under this Act, each of the parties intending marriage shall appear before the marriage officer, and make, and subscribe in a book kept by the officer for the purpose, an oath—

Oath before marriage.

- (a) that he or she believes that there is not any impediment to the marriage by reason of kindred or alliance, or otherwise; and
- (b) that both of the parties have for three weeks immediately preceding had their usual residence within the district of the marriage officer; and
- (c) where either of the parties, not being a widower or widow, is under the age of twenty-one years, that the consent of the persons whose consent to the marriage is required by law has been obtained thereto, or, as the case may be, that there is no person having authority to give such consent.

8.—(1.) After the expiration of fourteen days after the notice of an intended marriage has been entered under this Act, then, if no lawful impediment to the marriage is shown to the satisfaction of the marriage officer, and the marriage has not been forbidden in manner provided by this Act, the marriage may be solemnized under this Act.

Solemnization of marriage at office in presence of marriage officer and two witnesses.

(2.) Every such marriage shall be solemnized at the official house of the marriage officer, with open doors, between the hours of [eight in the forenoon and six in the afternoon,]⁽²⁾ in the presence of two or more witnesses, and may be solemnized by another person in the presence of the marriage officer, according to the rites of the Church of England, or such other form and ceremony as the parties thereto see fit to adopt, or may, where the parties so desire, be solemnized by the marriage officer.

Sub-section (2) amended by 24 & 25 Geo. V. c. 13, s. 1.

(3.) Where such marriage is not solemnized according to the rites of the Church of England, then in some part of the ceremony, and in the presence of the marriage officer and witnesses, each of the parties shall declare,

(2) The *Marriage (Extension of Hours) Act, 1934*, (United Kingdom) provided (Section 1 (2)) that the *Foreign Marriage Act, 1892*, shall have effect as if the words, "eight in the forenoon and six in the afternoon" were substituted for the words "eight in the forenoon and three in the afternoon", wherever the same occurred.

MARRIAGE AND DIVORCE—

“I solemnly declare, that I know not of any lawful impediment why I *A.B.* [*or C.D.*] may not be joined in matrimony to *C.D.* [*or A.B.*].”

And each of the parties shall say to the other,

“I call upon these 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*].”

Marriage fees to marriage officer and registration of marriages.

9.—(1.) The marriage officer shall be entitled, for every marriage solemnized under this Act by him or in his presence, to have from the parties married the proper fee.

(2.) He shall forthwith register in duplicate every such marriage in two marriage register books, which shall be furnished to him from time to time for that purpose by the Registrar-General (through a Secretary of State), according to the form provided by law for the registration of marriages in England, or as near to that form as the difference of the circumstances admits.

(3.) The entry in each book of every such marriage shall be signed by the marriage officer, by the person solemnizing the marriage, if other than the marriage officer, by both the parties married, and by two witnesses of the marriage.

(4.) All such entries shall be made in regular order from the beginning to the end of each book, and the number of the entry in each duplicate shall be the same.

(5.) The marriage officer by whom or in whose presence a marriage is solemnized under this Act may ask of the parties to be married the several particulars required to be registered touching the marriage.

Annual forwarding of copies of register book to Secretary of State.

10.—(1.) In January in every year every marriage officer shall make and send to a Secretary of State, to be transmitted by him to the Registrar-General, a copy, certified by him to be a true copy, of all the entries of marriages during the preceding year in the register book kept by him, and if there has been no such entry, a certificate of that fact; and every such copy shall be certified, and certificate given, under his hand and official seal.

(2.) The marriage officer shall keep the duplicate marriage register books safely until they are filled, and then send one of them to a Secretary of State, to be transmitted by him to the Registrar-General.

Marriage officers and their districts.

11.—(1.) For the purposes of this Act the following officers shall be marriage officers, that is to say:—

Foreign Marriage Act, 1892 (United Kingdom).

- (a) Any officer authorized in that behalf by a Secretary of State by authority in writing under his hand (in this Act referred to as a marriage warrant); and
- (b) Any officer who, under the marriage regulations hereinafter mentioned is authorized to act as marriage officer without any marriage warrant,

and the district of a marriage officer shall be the area within which the duties of his office are exerciseable, or any such less area as is assigned by the marriage warrant or any other warrant of a Secretary of State, or is fixed by the marriage regulations.

(2.) Any marriage warrant of a Secretary of State may authorize to be a marriage officer—

- (a) a British ambassador residing in a foreign country to the government of which he is accredited, and also any officer prescribed as an officer for solemnizing marriages in the official house of such ambassador;
- (b) the holder of the office of British consul in any foreign country or place specified in the warrant; and
- (c) a governor, high commissioner, resident, consular or other officer, or any person appointed in pursuance of the marriage regulations to act in the place of a high commissioner or resident, and this Act shall apply with the prescribed modifications to a marriage by or before a governor, high commissioner, resident, or officer so authorized by the warrant, and in such application shall not be limited to places outside Her Majesty's dominions.

(3.) If a marriage warrant refers to the office without designating the name of any particular person holding the office, then, while the warrant is in force, the person for the time being holding or acting in such office shall be a marriage officer.

(4.) A Secretary of State may, by warrant under his hand, vary or revoke any marriage warrant previously issued under this Act.

(5.) Where a marriage officer has no seal of his office, any reference in this Act to the official seal shall be construed to refer to any seal ordinarily used by him, if authenticated by his signature with his official name and description.

12. A marriage under this Act may be solemnized on board one of Her Majesty's ships on a foreign station, and with respect to such marriage—

Marriages on board Her Majesty's ships on foreign stations.

- (a) subject to the marriage regulations a marriage warrant of a Secretary of State may authorize the commanding officer of the ship to be a marriage officer;

MARRIAGE AND DIVORCE—

(b) the provisions of this Act shall apply with the prescribed modifications.

Avoidance of objections to marriages on account of want of formalities or authority of officer.

13.—(1.) After a marriage has been solemnized under this Act it shall not be necessary, in support of the marriage, to give any proof of the residence for the time required by or in pursuance of this Act of either of the parties previous to the marriage, or of the consent of any person whose consent thereto is required by law, nor shall any evidence to prove the contrary be given in any legal proceeding touching the validity of the marriage.

(2.) Where a marriage purports to have been solemnized and registered under this Act in the official house of a British ambassador or consul, or on board one of Her Majesty's ships, it shall not be necessary in support of the marriage, to give any proof of the authority of the marriage officer by or before whom the marriage was solemnized and registered, nor shall any evidence to prove his want of authority, whether by reason of his not being a duly authorized marriage officer or of any prohibitions or restrictions under the marriage regulations or otherwise, be given in any legal proceeding touching the validity of the marriage.

Forfeiture of property in case of fraudulent marriage.

14. If a marriage is solemnized under this Act by means of any wilfully false notice signed, or oath made by either party to the marriage, as to any matter for which a notice, or oath, is by this Act required, the Attorney General may sue for the forfeiture of all estate and interest in any property in England accruing to the offending party by the marriage; and the proceedings thereupon, and the consequences thereof, shall be the same as are provided by law in the like case with regard to marriages solemnized in England according to the rites of the Church of England.

Punishment of false oath or notice.

15.⁽³⁾ If a person—

- (a) knowingly and wilfully makes a false oath or signs a false notice, under this Act, for the purpose of procuring a marriage, or
- (b) forbids a marriage under this Act by falsely representing himself to be a person whose consent to the marriage is required by law, knowing such representation to be false,

such person shall suffer the penalties of perjury, and may be tried in any county in England and dealt with in the same manner in all respects as if the offence had been committed in that county.⁽³⁾

(3) The *Perjury Act*, 1911 (United Kingdom) repealed Section 15 of the *Foreign Marriage Act*, 1892, so far as it applied to England. The *Perjury Act*, 1911, was expressed not to extend to Scotland or Ireland. No reference was, however, made in that Act to His Majesty's Dominions.

Foreign Marriage Act, 1892 (United Kingdom).

16.—(1.) Any book, notice, or document directed by this Act to be kept by the marriage officer or in the archives of his office, shall be of such a public nature as to be admissible in evidence on its mere production from the custody of the officer.

Evidence.

(2.) A certificate of a Secretary of State as to any house, office, chapel, or other place being, or being part of, the official house of a British ambassador or consul shall be conclusive.

17. All the provisions and penalties of the Marriage Registration Acts, relating to any registrar, or register of marriages or certified copies thereof, shall extend to every marriage officer, and to the registers of marriages under this Act, and to the certified copies thereof (so far as the same are applicable thereto), as if herein re-enacted and in terms made applicable to this Act, and as if every marriage officer were a registrar under the said Acts.

Application of
Registration
Acts to this
Act.

18. Subject to the marriage regulations, a British consul, or person authorised to act as British consul, on being satisfied by personal attendance that a marriage between parties, of whom one at least is a British subject, has been duly solemnized in a foreign country, in accordance with the local law of the country, and on payment of the proper fee, may register the marriage in accordance with the marriage regulations as having been so solemnized, and thereupon this Act shall apply as if the marriage had been registered in pursuance of this Act, except that nothing in this Act shall affect the validity of the marriage so solemnized.

Registration of
marriages
solemnized under
local law.

19. A marriage officer shall not be required to solemnize a marriage, or to allow a marriage to be solemnized in his presence, if in his opinion the solemnization thereof would be inconsistent with international law or the comity of nations;

Power to refuse
solemnization
of marriage
where marriage
inconsistent
with
international
law.

Provided that any person requiring his marriage to be solemnized shall, if the officer refuses to solemnize it or allow it to be solemnized in his presence, have the right of appeal to the Secretary of State given by this Act.

20. The proper fee under this Act shall be such fee as may for the time being be fixed under the Consular Salaries and Fees Act, 1891; and the fee so fixed as respects a consul shall be the fee which may be taken by any marriage officer; and the provisions relating to the levying, application, and remission of and accounting for fees under that Act shall apply to the same when taken by any marriage officer who is not a consul.

Fees.
Imp. 54 & 55
Vict. c. 36.

21.—(1.) Her Majesty the Queen in Council may make regulations⁽⁴⁾ (in this Act referred to as the marriage regulations)—

Power to make
marriage
regulations.

(4) See *The Foreign Marriages Orders in Council, 1913 to 1933*, printed on p. 2917.

MARRIAGE AND DIVORCE—

- (a) Prohibiting or restricting the exercise by marriage officers of their powers under this Act in cases where the exercise of those powers appears to Her Majesty to be inconsistent with international law or the comity of nations, or in places where sufficient facilities appear to Her Majesty to exist without the exercise of those powers, for the solemnization of marriages to which a British subject is a party; and
- (b) Determining what offices, chapels, or other places are, for the purposes of marriages under this Act, to be deemed to be part of the official house or the office of a marriage officer; and
- (c) Modifying in special cases or classes of cases the requirements of this Act as to residence and notice, so far as such modification appears to Her Majesty to be consistent with the observance of due precautions against clandestine marriages; and
- (d) Prescribing the forms to be used under this Act; and
- (e) Adapting this Act to marriages on board one of Her Majesty's ships; and to marriages by or before a governor, high commissioner, resident, or other officer, and authorising the appointment of a person to act under this Act in the place of a high commissioner or resident; and
- (f) Determining who is to be the marriage officer for the purpose of a marriage in the official house of a British ambassador, or on board one of Her Majesty's ships, whether such officer is described in the regulations or named in pursuance thereof, and authorising such officer to act without any marriage warrant; and
- (g) Determining the conditions under which and the mode in which marriages solemnized in accordance with the local law of a foreign country may be registered under this Act; and
- (h) Making such provisions as seem necessary or proper for carrying into effect this Act or any marriage regulations; and
- (i) Varying or revoking any marriage regulations previously made.

(2.) All regulations purporting to be made in pursuance of this section may be made either generally or with reference to any particular case or class of cases, and shall be published under the authority of Her Majesty's Stationery Office, and laid before both Houses of Parliament, and deemed to be within the powers of this Act, and shall while in force have effect as if enacted by this Act.

Foreign Marriage Act, 1892 (United Kingdom).

(3.) Any marriage regulations which dispense for any reason, whether residence out of the district or otherwise, with the requirements of this Act as to residence and notice, may require as a condition or consequence of the dispensation, the production of such notice, certificate, or document, and the taking of such oath, and may authorise the publication or grant of such notice, certificate, or document, and the charge of such fees as may be prescribed by the regulations; and the provisions of this Act, including those enacting punishments with reference to any false notice or oath, shall apply as if the said notice, certificate, or document were a notice, and such oath were an oath, within the meaning of those provisions.

22. It is hereby declared that all marriages solemnized within the British lines by any chaplain or officer or other person officiating under the orders of the commanding officer of a British army serving abroad, shall be as valid in law as if the same had been solemnized within the United Kingdom, with a due observance of all forms required by law.

Validity of marriages solemnized within British lines.

23. Nothing in this Act shall confirm or impair or in anywise affect the validity in law of any marriage solemnized beyond the seas, otherwise than as herein provided, and this Act shall not extend to the marriage of any of the Royal family.

Saving.

24. In this Act, unless the context otherwise requires,—

Definitions.

The expression "Registrar-General" means the Registrar-General of Births, Deaths, and Marriages in England:

The expression "Attorney General" means Her Majesty's Attorney General, or if there is no such Attorney General, or the Attorney General is unable or incompetent to act, Her Majesty's Solicitor General, for England:

The expression "the Marriage Registration Acts" means the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter eighty-six, intituled "An Act for registering births, deaths, and marriages in England" and the enactments amending the same:

The expression "official house of a marriage officer" means, subject to the provisions of any marriage regulations, the office at which the business of such officer is transacted, and the official house of residence of such officer, and, in the case of any officer, who is an officer for solemnizing marriages in the official house of an ambassador, means the official house of the ambassador:

MARRIAGE AND DIVORCE—

The expression “consul” means a consul-general, consul, vice-consul, pro-consul, or consular agent:

The expression “ambassador” includes a minister and a chargé d'affaires:

The expression “prescribed” means prescribed by marriage regulations under this Act.

Section 25 repealed by 8 Edw. VII, c. 49, s. 1 and Schedule.

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Repeal and savings. Sub-section (1) (except paragraph (b)) repealed by 8 Edw. VII, c. 49, s. 1 and Schedule.

26.—(1.)

* * * * *

(b) any proceedings taken with reference to a marriage, any register book kept, and any warrant issued in pursuance of the Acts hereby repealed, shall have effect as if taken, kept, and issued in pursuance of this Act; and

Paragraphs (c) and (d) repealed by 8 Edw. VII, c. 49, s. 1 and Schedule.

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(2.) Every marriage in fact solemnized and registered by or before a British consul or other marriage officer in intended pursuance of any Act hereby repealed shall, notwithstanding such repeal or any defect in the authority of the consul or the solemnization of the marriage elsewhere than at the consulate, be as valid as if the said Act had not been repealed, and the marriage had been solemnized at the consulate by or before a duly authorised consul:

Provided that this enactment shall not render valid any marriage declared invalid before the passing of this Act by any competent court, or render valid any marriage either of the parties to which has, before the passing of this Act, lawfully intermarried with any other person.

Short title.

27. This Act may be cited as the *Foreign Marriage Act, 1892.*⁽¹⁾

Schedule repealed by 8 Edw. VII, c. 49, s. 1 and Schedule.

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(1) See footnote (1) printed on p. 2907.