

**MARRIAGE ACT**

**Principal Act**

<b>Act. No. 1948-36</b>	<i>Commencement</i>	11.3.1949
With which are incorporated	<i>Assent</i>	17.11.1948

	Relevant current provisions
Act. 1960-17, s.56	s.30
1962-9, s.52	s.39

Amending enactments	Relevant current provisions	Commencement Date
Act. 1949-25	ss. 5, 22	
1962-10	s. 17	
1963-08	s. 3(1)	
1968-16	s. 13(4)	
LN. 1978/006	Sch. 2	
Act. 1980-04	s. 3(2)	
1983-12	ss. 10, 13(5)	
1983-30	s. 15(1), (2), Sch. 2	
1986-19	s. 15(3)	13.11.1986
1990-21	ss. 10, 11(2), 13(2), (5), (6), 21(2), 22(1), 30(c), Sch. 1, 3	7.6.1990
2007-17	ss. 2(a), 3(1), (2), 4(1), (3), (4), 6(a), (b), (c), 13(1), (2), (3), (5), 21(1), (2), 22(1), 32(1), 43	14.6.2007
2014-11	ss. 2, 6(c), 13(1), (3), 22(1), (1A), (1B), 23(4), (5) & Sch. 2A	12.6.2014

English sources

Age of Marriage Act 1929 (19 & 20 Geo.5 c.36)  
 Matrimonial Causes Act 1950 (14 Geo.6 c.25)

## RENUMBERING OF SECTIONS

Previous number	New number	Previous number	New number
1	1	28	27(1)
2	2	29	42
3	3	30	27(2)
4	4	31	33
5	5	32	34
6	6	33	31
7	7	34	32
8(1)-(4)	8(1)-(4)	35	35
8(5) and (6)	28(1) and (2)	36	41
9	9	37	37
10	10	38	38
11	11	39	26
12(1),(3) and (4)	12	40	24
12(2) and (4)	36	41	43
13	13	First Sch.	Sch. 1
14(1), (1A) and (2)	15	Second Sch.	Sch. 2
14(1B)	<i>Transferred to Criminal Offences Act as Subs.108(4) and 109(2)</i>		
14(3)	<i>Omitted-see Maintenance Act, s.19(2)</i>		
15	16		
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AN ACT RELATING TO THE SOLEMNIZATION, CONTRACTION  
AND REGISTRATION OF MARRIAGES.

*Preliminary*

**Short title.**

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

**Interpretation.**

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

“governing body” means—

- (a) in relation to places of worship under the control of the naval, military or air forces of the Crown, the Governor in his capacity as Commander in Chief;
- (b) in relation to places of worship of the Hebrew community, the Managing Board of that community; and
- (c) in relation to any other place of worship, the bishop, trustees, representatives or other acknowledged head in Gibraltar of the religious community directing or controlling such place;

“Holy Day” means any day which is observed by a religious community (or celebrated in such a community by general attendance at a place of worship) and is prescribed as such for the purpose of this Act by an Order made by the Governor;

“minister” means any person for the time being registered in pursuance of section 5;

“passenger ship” means any vessel, wherever registered (save in sections 6(c), 13(1), 13(3) and 22(1), in which case it must be registered in Gibraltar), of over one hundred gross tons and carrying more than twelve passengers on a voyage;

“place of worship” means any building or part of a building used for religious purposes for the time being registered in pursuance of section 4 and in the case of a church shall include any chapel attached thereto;

“Registrar” means the Marriage Registrar and includes a Deputy Registrar.

*Appointments and Authorizations***Appointment of Registrar and Deputies.**

3.(1) The Minister responsible for personal status shall appoint a fit and proper person to be the Marriage Registrar, who shall have a seal of such design as the Minister responsible for personal status may direct.

(2) The Minister responsible for personal status may appoint one or more deputy marriage registrars, and any deputy registrar so appointed may, subject to any directions given to him by the Registrar, exercise all the powers and perform all the duties of the Registrar.

**Registration of places of worship.**

4.(1) It shall be lawful for the Minister responsible for personal status by writing under his hand and the public seal to authorize the registration of any building or part of a building for the solemnization of marriages under this Act. On receipt of the Minister responsible for personal status' authorization, the Registrar shall register such building or part thereof in his records as a place of worship for the purposes of this Act.

(2) The buildings commonly known by the descriptions set out in Schedule 1 shall without any further formality be deemed to be duly registered under the provisions of subsection (1).

(3) The Minister responsible for personal status may, for good cause shown, and after consultation with the head of the religious community by whom the building is used as a place of worship, if he thinks fit, by writing under his hand and the public seal, authorize the removal from the register kept by the Registrar in pursuance of this section of any building or part of a building which has been registered as a place of worship for the purposes of this Act, and on receipt of such authorization the Registrar shall cancel the registration of such building or part of a building:

Provided that no marriage solemnized in any such building or part of a building previous to the cancellation of the registration thereof shall be rendered invalid by such cancellation.

(4) A notification of every authorization issued by the Minister responsible for personal status under this section shall be published in the Gazette.

**Registration of ministers.**

5.(1) The governing body of every place of worship shall, from time to time, certify to the Registrar the name, address and description of every

person who is authorized by such body to solemnize marriages in the place or places of worship under the direction or control of such body and, if there be more than one such place, shall specify in such certificate at which of such places of worship the person named is authorized to solemnize marriages.

(2) Upon the receipt of such certificate the Registrar shall forthwith register such person in his records as a minister for the purposes of this Act and shall also record the date on which such person is so registered and the place or places at which the person named is authorized to solemnize marriages.

(3) The registrar shall remove from his records the name of any minister who dies or whose removal is requested by the governing body on whose certificate the minister's name was registered, or their lawful successors.

(4) No marriage under this Act shall be solemnized or contracted except in the presence of a minister duly registered under, this section and certified as authorized to solemnize marriages in the place of worship in which the marriage is solemnized or in the presence of the Registrar.

*Places of and preliminaries to Marriage*

**Places of and preliminaries to marriage.**

6. Marriage may be solemnized or contracted—

- (a) in a place of worship—
  - (i) after due publication of banns or exhibition of a notice at a place or two places of worship; or
  - (ii) on the delivery of a bishop's licence; or
  - (iii) on the delivery of a Minister responsible for personal status' licence; or
  - (iv) on the delivery of the Registrar's certificate;
- (b) in the Registrar's Office—
  - (i) after due notice; or
  - (ii) after the issue of the Registrar's special certificate; or
  - (iii) on the delivery of a Minister responsible for personal status' licence;

- (c) at any place (including on board a passenger ship registered in Gibraltar) on the delivery of a Minister responsible for personal status' licence.

**Notice to Registrar.**

7.(1) In every case of a marriage intended to be contracted under the authority of the Registrar's certificate, one of the parties, both having resided in Gibraltar for a period of not less than seven days then next preceding, shall give notice of the intended marriage, in the prescribed form (making such declaration as may therein be prescribed ) to the Registrar.

(2) On the receipt of a notice of an intended marriage and upon the payment of the prescribed fee, the Registrar shall forthwith enter the particulars set forth in such notice, and also the date of the receipt of such notice, in a book to be called the Marriage Notice Book, and shall post a copy of such notice in a conspicuous place in his office for a period of not less than twenty-one days from the time of the receipt thereof.

(3) The Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

**Notice to ministers.**

8.(1) In every case of a marriage intended to be solemnized in a place of worship, each of the parties, both having resided in Gibraltar for a period of not less than seven days next preceding, shall give notice of the intended marriage in the prescribed form (making such declaration as may therein be prescribed) to a minister of the religious community to which he or she respectively belongs:

Provided that—

- (a)
  - (i) where both the parties to the intended marriage belong to the same religious community and the marriage is intended to be solemnized at a place of worship belonging to that community; or
  - (ii) where one of the parties to the intended marriage belongs to a religious community having a place of worship in Gibraltar and the marriage is intended to be solemnized in a place of worship which belongs to that community, and the other party does not belong to a religious community having a place of worship in Gibraltar; or



- (iii) where neither of the parties to the intended marriage belongs to a religious community having a place of worship in Gibraltar but the marriage is intended to be solemnized at a place of worship in Gibraltar,

then a single notice, signed by both parties, to a minister of the community to which the place of worship at which the marriage is intended to be solemnized belongs, shall be sufficient;

- (b)
  - (i) where both of the parties to the intended marriage belong to the same religious community and the marriage is intended to be solemnized in a place of worship belonging to another religious community; or
  - (ii) where one of the parties to the intended marriage belongs to a religious community having a place of worship in Gibraltar and the other party does not belong to any religious community having a place of worship in Gibraltar and the marriage is intended to be solemnized in a place of worship of a communion other than that of either of the parties,

then notice shall be given by the parties both to a minister of the community, if any, in Gibraltar to which the party belongs and to a minister of the community to which the place of worship at which the marriage is intended to be solemnized belongs;

- (c) where the parties belong to different religious communities and the marriage is intended to be solemnized in a place of worship belonging to a third religious community, then notice shall be given by each of the parties to a minister of the community to which the place of worship at which the marriage is intended to be solemnized belongs as well as to a minister of the community to which each of the parties belong:

Provided further that—

- (a) if in any of the aforesaid cases the notice addressed to a minister of the community to which either party belongs is not accepted by such minister in the manner and within the period prescribed it shall be sufficient in any case (except where the refusal to accept is given by a minister of the religious community to which the place of worship at which the marriage is to be solemnized belongs) if a single notice signed by both parties to the marriage be given to a minister of the community to which the place of worship at which the

marriage is to be solemnized belongs, and such notice shall state the fact of such refusal by any minister as aforesaid, with any reason endorsed on the notice for refusing to accept it; or

- (b) if a minister of the community to which the place of worship at which the marriage is intended to be solemnized belongs refuses to accept the notice, the marriage shall not be solemnized in such place of worship.

(2) On receipt of a notice of an intended marriage, such minister shall forthwith enter the particulars set forth in such notice, and also the date of the receipt of such notice, in a book to be called the Marriage Banns Book which shall be kept at each place of worship in the custody of the head or principal minister attached to that place:

Provided that in the case of the Jewish places of worship, one such Marriage Banns Book only shall be required which shall be kept in the custody of such person as may from time to time be nominated (and certified to the Registrar as such) by the President for the time being of the Managing Board of the Hebrew Community in Gibraltar.

(3) Subject to the provisions of subsection (4), such minister shall also, by himself or by some other person by him duly authorized, in all cases where the beliefs of the religious community to which the minister belongs so allow, publish the banns of marriage between the parties named in such notice in the place of worship at which he acts as minister of religion. The publication shall be made in an audible manner sometime during divine service on a Sunday or Holy Day (or, in the case of Jews, on the Jewish Sabbath), and shall be in the form of words regularly employed by the religious community to which the minister belongs, and shall be made on three several such days (or Jewish Sabbaths), during morning service or, if there be no morning service, then during evening service:

Provided that not less than thirteen clear days shall be interposed between the first date of such publication and the last.

(4) Where the beliefs of the religious community to which the minister belongs do not allow of the publication of banns, or where the head of the religious community shall direct, the minister shall cause a notice in the prescribed form to be posted in a conspicuous position, at or near the principal entrance of the place of worship at which he officiates, for a period extending over three Sundays (or three Jewish Sabbaths in the case of Jews) from the date of the receipt of the notice referred to in subsection (1).

**Registrar's certificate.**

9. At any time not more than three months nor less than twenty-one days after the entry of notice under section 7, the Registrar, upon being requested so to do by or on behalf of the party by whom such notice was given, and provided that no lawful impediment has been shown to the satisfaction of the Registrar why such certificate should not issue and no caveat has been entered against the marriage or issue of such certificate in the manner hereinafter mentioned, shall, upon the payment of the prescribed fee, issue under his hand a certificate according to the prescribed form (in this Act called a Registrar's certificate) which shall state the particulars set forth in the notice, and the date on which the notice was entered, and that no caveat has been entered against the issue of such certificate, and that the full period of twenty-one days has elapsed since the entry of such notice.

**Minister's certificate.**

10. At any time after the publication of the banns, if any, is complete or after the time limited for the exhibition of the notice in the manner prescribed by section 8(4) and before the expiration of three months from the entry of notice under that section, the minister to whom such notice was given or any other minister attached to the same place of worship, upon being requested so to do by or on behalf of the party by whom such notice was given, and provided that no lawful impediment has been shown to the satisfaction of such minister why such certificate should not issue and no caveat has been entered against the marriage or the issue of such certificate in the manner hereinafter mentioned, shall, upon the payment of such fee not exceeding the fee for issue of a Registrar's Certificate as the minister may require, issue under his hand a certificate (in this Act called a minister's certificate) according to the prescribed form, and every such certificate shall state the particulars set forth in the notice, and the date on which the notice was entered, and that no caveat has been entered against the issue of such certificate, and that the banns have been published or that notice has been posted, as the case may be, in the manner required by this Act.

**Registrar's special certificate.**

11.(1) Notwithstanding the other provisions of this Act, it shall be lawful for the Registrar, after notice under section 7 has been given to him by one of the parties to the intended marriage, both of whom shall have resided in Gibraltar for not less than seven clear days then next preceding, and subject to the restrictions hereinafter mentioned, at any time after the expiration of one clear day next after the date of the entry of the notice, upon the payment of the prescribed fee, to issue a special certificate in the prescribed form which shall have the same effect as and shall be deemed to be a certificate issued under section 9.

(2) No such special certificate shall be issued unless one of the parties to the intended marriage shall appear personally before the Registrar and shall

produce an affidavit or statutory declaration made by each of the parties, each such affidavit or statutory declaration to contain the particulars set out in Schedule 2.

**Certificates of Commonwealth registrars.**

12.(1) Where a marriage is intended to be solemnized or contracted in Gibraltar between any person resident in Gibraltar and a person resident in the United Kingdom or any other part of the Commonwealth other than Gibraltar, a certificate for marriage lawfully issued in England, Scotland or Northern Ireland, or such other part of the Commonwealth, shall in respect of the last- mentioned person have the same effect as a certificate issued by the Registrar or a minister in Gibraltar.

(2) For the purposes of subsection (1) “certificate for marriage lawfully issued” means—

- (a) in the case of England, a certificate for marriage issued by a superintendent registrar;
- (b) in the case of Scotland, a certificate for marriage issued by a registrar or a certificate of proclamation of banns;
- (c) in the case of Northern Ireland, a certificate for marriage issued by a registrar; and
- (d) in the case of any other part of the Commonwealth, a certificate of due publication of banns or a certificate for marriage of a registrar of marriage or other officer duly authorized in that behalf in such other part of the Commonwealth, provided always that such certificate is issued under a law for the time being in force in such other part of the Commonwealth which makes due provision for the publication of banns or the giving of notice in respect of marriages.

(3) In cases to which subsection (1) refers, notice in Gibraltar to the Registrar or a minister under section 7 or 8 shall only be required to be given by the party to the marriage who is resident in Gibraltar.

**Special licences.**

13.(1) Notwithstanding the other provisions of this Act, in the case of persons intending that a marriage shall be solemnized or contracted in Gibraltar (or on a passenger ship registered in Gibraltar) between them, it shall be lawful for one of the authorities hereinafter specified, if he shall think fit and upon the payment of the proper fee, and upon presentation to him of an affidavit or statutory declaration containing the particulars set out

in Schedule 2, and upon receiving such other information as the authority shall in his discretion require, to dispense with the giving of notice, and with the issue of any certificate of the Registrar or a minister, and to grant a special licence, in the prescribed or the like form, authorizing the solemnization or contraction of marriage between the parties named in such licence at the place therein stated within a period of three months from the date of issue of such licence.

- (2) The authorities hereinbefore referred to shall be—
- (a) the Minister responsible for personal status; or
  - (b) the Anglican Bishop of Gibraltar in Europe ;
  - (c) the Roman Catholic Bishop of Gibraltar:

Provided that in the case of a vacancy in office or incapacity, or absence from Gibraltar, of the Anglican Bishop or the Roman Catholic Bishop, the special licences referred to in subsection (1) may be issued by the Dean of Gibraltar, and by the Vicar General or Vicar Capitular, respectively, in the manner herein prescribed.

(3) The licence of the Minister responsible for personal status may authorize the solemnization or contraction of the marriage at any hour and place in Gibraltar (or on a passenger ship registered in Gibraltar).

(4) The licence of a Bishop shall be issued only where one, at least, of the parties to the intended marriage is a British national and belongs to the religious community of which the Bishop granting the licence is the titular head in Gibraltar and such licence shall only purport to authorize the solemnization of the marriage in a place of worship under such Bishop's jurisdiction or control during the lawful hours for the celebration of marriages:

Provided that the licence of a bishop may be issued authorizing the solemnization or contraction of a marriage between any parties who may be lawfully married in Gibraltar, at any hour or place in Gibraltar, if one at least of the parties is in *articulo mortis*:

Provided further that a report of any such marriage shall be sent to the Attorney-General by the bishop issuing such licence in such manner as may be prescribed.

(5) The fee payable for such licence shall in the case of a Minister responsible for personal status' licence be the prescribed fee and in the case of a Bishop's licence such fee not exceeding the fee for a Minister responsible for personal status' licence as the Bishop may fix:

Provided that in the case of a Minister responsible for personal status' licence the prescribed fee and, in the case of any special licence, the prescribed stamp duty, may be reduced or waived in any case where from the poverty of the parties the Minister responsible for personal status shall see fit so to direct.

(6) For the purpose of this section, places of worship under the jurisdiction of the Anglican Bishop to Her Majesty's Forces, shall be deemed to be places of worship under the jurisdiction of the Anglican Bishop of Gibraltar in Europe.

**Expiry of notices and licences.**

14. Whenever a marriage shall not take place within three months after the entry of notice thereof or after the granting of a licence under section 13, the notice or licence, as the case may be, and all other proceedings, shall thereupon be utterly void, and no minister shall proceed to solemnize the marriage, nor shall the marriage be contracted before the Registrar, until new notice has been given and entry made or a new licence has been granted in the manner aforesaid.

*Marriage of minors*

**Avoidance of marriage where either party under 16.**

15.(1) Subject to subsection (2), a marriage between persons of whom either is under the age of 16 years shall be void.

(2) The Supreme Court, on application by her or on her behalf, may in exceptional circumstances permit a female person who has attained the age of 15 years but has not attained the age of 16 years, to enter into a marriage, and where she enters into that marriage pursuant to that permission, the marriage shall not by virtue of subsection (1) be void.

(3) Nothing in this section shall affect any marriage solemnized or contracted before the 30 day of April 1985, and any such marriage shall be valid in any case where, if this section had not been enacted, it would be valid.

**Consent to marriage of minors.**

16.(1) The marriage of any minor which is not prohibited by the provisions of section 15(1) shall require the consent of the person or persons specified in Schedule 3.

(2) If the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the necessity for the consent of that person shall be dispensed with by the person to whom notice of the marriage is given or the authority issuing a licence for the marriage, as the case may be, if there is any other person whose consent is also required and the consent of such other person is duly given.

(3) Nothing in this section contained shall dispense with the necessity of obtaining the consent of the Supreme Court to the marriage of a ward of court.

### **Power of court to authorize marriage.**

17.(1) Where in any case the consent of any person, not being a person whose consent may be dispensed with under the provisions of section 16(2), to a marriage is required and that person refuses his consent or his consent cannot be obtained by reason of absence, inaccessibility or by reason of his being under any disability, the Supreme Court or the magistrates' court may, on application being made, consent to the marriage and the consent of the Supreme Court or the magistrates' court so given shall have the same effect as if it had been given by the person whose consent cannot be so obtained.

(2) An application under this section—

- (a) if made to the Supreme Court, shall be heard by the Chief Justice in chambers;
- (b) if made to the magistrates' court shall be heard in the same manner as domestic proceedings are heard in accordance with the provisions of the Magistrates' Court Act.

(3) The Chief Justice may make rules with respect to the practice and procedure to be followed in applications under this section.

### *Caveats*

### **Objections to marriage.**

18.(1) Any person whose consent to a marriage is required by this Act, or who may know of any just cause why a marriage should not take place, may enter a caveat against the contraction or solemnization of the marriage or the issue of the Registrar's or minister's certificate in the following manner—

- (a) if the marriage is intended to be contracted under the authority of the Registrar's certificate, or before the Registrar, such

person shall, at any time before the issue of such certificate, or if the marriage is to take place before the Registrar, then before the marriage, write the word "Forbidden" opposite to the entry of the notice in the Marriage Notice Book, and shall append thereto his name and place of abode, and the grounds upon which he claims to forbid the marriage;

- (b) if the marriage is intended to be solemnized in a place of worship, such person shall give notice in writing to a minister of the place of worship where the banns are published or the notice exhibited that such person forbids the marriage, and he shall append to such notice his name and place of abode, and the grounds upon which he claims to forbid the marriage. The minister shall record in the Marriage Banns Book (or, in the case of a Jewish minister, he shall record or cause to be recorded) the fact and date of the receipt of the notice forbidding the marriage.

(2) Neither the Registrar nor any minister shall issue his certificate or shall perform or solemnize the marriage until such caveat has been removed in the manner hereinafter provided.

#### **Reference to Chief Justice.**

19.(1) Whenever a caveat is entered against the contraction or solemnization of a marriage or the issue of the Registrar's or a minister's certificate, the Registrar or minister, as the case may be, shall forthwith refer the matter to the Chief Justice.

(2) If the Chief Justice is of opinion that no legal ground has been disclosed in the caveat for forbidding the marriage or the issue of the certificate, he may remove the caveat in the manner hereinafter provided without requiring any of the parties to appear.

(3) In other cases, the Chief Justice shall summon the parties to the intended marriage and the person by whom the caveat has been entered, and shall require such last-named person to show cause why the Registrar or minister, as the case may be, should not in due course issue his certificate or perform or solemnize the marriage.

(4) Every such matter shall be heard and determined in a summary way, and the Chief Justice may award compensation and costs to the party against whom the caveat was entered, if it appears that such caveat was entered on insufficient grounds.

#### **Removal of caveat.**



20.(1) If the Chief Justice shall so decide, he shall remove the caveat by a declaration under his hand that the intended marriage is proper and may be solemnized or contracted; and a certified copy of such declaration shall be forwarded to the Registrar or the minister, as the case may be, by whom the caveat was referred.

(2) On the removal of the caveat, the Registrar or minister, as the case may be, may issue his certificate or perform or solemnize the marriage in due course, and the marriage may proceed as if the caveat had not been entered, but the time which has elapsed between the entering and removal of the caveat shall not be computed in the period of three months specified in sections 9, 10, 14 and 32.

### *Solemnization and Contraction of Marriage*

#### **Marriage in a place of worship.**

21.(1) Subject to the provisions of sections 14 and 39, after the due publication of banns or the exhibition of a notice at any place of worship and if no lawful impediment shall have been shown to the satisfaction of the minister of such place, or upon the delivery of the Minister responsible for personal status' special licence or of a Bishop's licence or of a Registrar's certificate, a minister may solemnize the marriage between the parties thereto:

Provided that in all cases where banns have been published or a notice exhibited at two places of worship, the marriage shall be solemnized at one of those places and before such marriage is solemnized a certificate issued under section 10 that the banns have been duly published or a notice exhibited at the other place of worship shall be produced to the minister officiating at the marriage.

(2) Such marriage shall be solemnized with open doors in the presence of two or more credible witnesses besides the minister, and, except in the case of a marriage by Minister responsible for personal status' licence, between the hours of six o'clock in the forenoon and eight o'clock in the afternoon of the same day.

#### **Marriage before Registrar.**

22.(1) At the expiration of not less than twenty-one days after entry of notice by the Registrar under section 7 and if no lawful impediment shall have been shown to the satisfaction of the Registrar, or on the issue of a special certificate under section 11 or on the delivery to the Registrar of a licence from the Minister responsible for personal status under section 13 the parties to the proposed marriage may, upon the payment of the prescribed fee, contract marriage at the office of the Registrar or, in the case

of a marriage following a licence from the Minister responsible for personal status, at the place (including on a passenger ship registered in Gibraltar) stated in the licence, with open doors in the presence of two or more credible witnesses beside the Registrar, and except in the case of a marriage by Minister responsible for personal status' licence, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of the same day :

Provided always that each of the parties shall, in some part of the ceremony, and in the presence of the Registrar and witnesses, make the following declaration –

“I do solemnly declare that I know not of any lawful impediment why I, A. B., should not be joined in matrimony to C. D. here present” ;

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 (or husband). “

(1A) Where the marriage is to be contracted in Gibraltar under a licence from the Minister responsible for personal status under section 13, the parties to the proposed marriage shall, before the ceremony takes place, present to the Registrar a statement in the form set out in Schedule 2A or such similar statement as confirms, to the satisfaction of the Registrar, that the parties to the proposed marriage have spent or will spend at least one night in Gibraltar immediately prior to or immediately following the ceremony.

(1B) Where both parties to the marriage to be contracted under a licence from the Minister responsible for personal status under section 13 –

- (a) are passengers or crew on a passenger ship;
- (b) the passenger ship on which they are passengers or crew calls at Gibraltar;
- (c) the parties are to be married ashore in Gibraltar; and
- (d) the parties present to the Registrar a letter or other official document from the passenger ship's master, purser or other officer or administrator attesting to (a) and (b),

the requirement that the parties have spent or will spend at least one night in Gibraltar immediately prior to or immediately following the ceremony in subsection (1)(A) shall not apply.

(2) At no marriage contracted before the Registrar shall any religious service be used.

## *Registration of Marriages*

### **Registration of marriages and transmission of duplicates.**

23.(1) Immediately after the solemnization of any marriage, the minister who celebrated the marriage shall enter in a book (to be kept at such place of worship and to be in the custody of the principal minister of such place) called the Marriage Register Book a statement of the marriage in the prescribed form, which entry shall be signed by such minister and by the parties to the marriage and by two credible witnesses of the marriage, and every such minister shall within seven days after the marriage transmit to the Registrar a duplicate of such statement similarly signed, and all such duplicate statements shall be filed by the Registrar and preserved among the records of his office :

Provided that in the case of the Jewish places of worship one such Marriage Register Book only shall be required, which shall be kept in the custody of such person as may, from time to time, be nominated and certified to the Registrar as such by the President for the time being of the Managing Board of the Hebrew Community in Gibraltar.

(2) A minister who, without reasonable cause or excuse, fails to transmit to the Registrar any statement in accordance with the provisions of this section is guilty of an offence and is liable, on summary conviction, for every such offence, to a fine of £10.

(3) The Registrar shall forthwith register every marriage contracted in his presence, and (with the word "copy" prefixed) all statements of marriages so transmitted to him as aforesaid in a Marriage Register Book, in the prescribed form, and the entry in such book of every such marriage contracted in his presence shall be signed by him, and all such entries shall be made in regular order from the beginning to the end of such book.

(4) In the case of a marriage contracted on a passenger ship registered in Gibraltar following a licence from the Minister responsible for personal status, the Deputy Registrar before whom the marriage was contracted shall enter into a Marriage Register Book to be kept in his custody a statement of the marriage in the prescribed form, signed by the Deputy Registrar, the parties to the marriage and two credible witnesses to the marriage and the Deputy Registrar shall, as soon as reasonably practicable, forward to the Registrar a duplicate of such statement similarly signed and all such statements shall be filed by the Registrar and preserved among the records of his office.

- (5) For the purposes of subsection (4)–
- (a) the Registrar shall issue a Marriage Register Book to the master of each passenger ship registered in Gibraltar;
  - (b) a Marriage Register Book issued shall at all times remain the property of the Government and the Registrar may retake possession, inspect, or otherwise exercise the Government's ownership of it.

**Corrections of errors in registers.**

24.(1) With regard to the correction of errors in Marriage Register Books, it is hereby enacted as follows–

- (a) no alteration in any register shall be made except as authorized by this section;
- (b) any clerical error which may from time to time be discovered may be corrected by the person in whose custody the register properly is and shall be initialed by him;
- (c) any error of fact or substance may be corrected in the margin by the person in whose custody the register properly is (without any alteration of the original entry), upon production to him by the person requiring such error to be corrected, of a statutory declaration setting out the nature of the error and the true facts of the case and made by the person or persons on whose information the entry was made or in default of such persons by two credible witnesses having knowledge of the truth of the case.

(2) When a correction is made in pursuance of subsection (1) by a minister he shall make and deliver forthwith to the Registrar a separate certified copy of the original erroneous entry and of the correction therein made, and on receipt of the same the Registrar shall thereupon make the necessary correction in his records in the manner aforesaid.

**Searches and certified copies.**

25.It shall be lawful for all persons at all reasonable times and upon the payment of the prescribed fee, to search the entries in any Marriage Register Book or any file of statements as aforesaid kept by the Registrar, and to have true copies, certified under the hand and seal of the Registrar or under the hand of the minister or person having the lawful custody of the Marriage Register Book, as the case may be, of any such entries or statements, and

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such certified copies shall be receivable in evidence in all courts without any further or other proof of such entries or statements.

### *Validity of Marriages.*

#### **Void marriages.**

26.(1) Subject to the provisions of section 27, if any persons knowingly and wilfully intermarry in Gibraltar otherwise than in accordance with the provisions of this Act, or if the parties to any marriage are within the prohibited degrees of consanguinity or affinity according to the law for the time being in force in \* England, the marriage of such persons is null and void.

(2) Where a marriage is solemnized or contracted in Gibraltar in pursuance of the provisions of this Act but those provisions are not complied with in all respects, then, except as otherwise expressly provided in this Act, the marriage is not invalid by reason only of such non-compliance.

#### **Certain marriages not void or voidable as civil contracts.**

27.(1) No marriage heretofore or hereafter solemnized or contracted between a man and his deceased wife's sister or between a man and his deceased brother's widow or between a man and any of the following persons, that to say—

- (a) his deceased wife's brother's daughter;
- (b) his deceased wife's sister's daughter;
- (c) his father's deceased brother's widow;
- (d) his mother's deceased brother's widow;
- (e) his deceased wife's father's sister;
- (f) his deceased wife's mother's sister;
- (g) his brother's deceased son's widow;

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\* *Currently, the Marriage Act 1949, First Schedule, Part I. This section should be read with s.17 of the Adoption Ordinance (Ord, 1951-19).*

- (h) his sister's deceased son's widow, shall be deemed to have been or shall be void or voidable, as a civil contract, by reason only of such affinity :

Provided that if, before the 11th day of March, 1949, any such marriage was annulled, or either party thereto (after the marriage and during the life of the other) lawfully married another, it shall be deemed to have become and to be void upon and after the day upon which it was so annulled, or upon which either party thereto lawfully married another.

- (2) In this section "sister" includes a sister of the half blood, and "brother" includes a brother of the half blood.

**Marriage not invalidated by false statement.**

28.(1) If any false statement as to the religious community of any party to an intended marriage is made by such party under the provisions of this Act, any marriage solemnized thereafter shall not by reason thereof be invalid, but the party making such declaration is liable to prosecution under the provisions of Part XX of the Criminal Offences Act.

- (2) No minister who marries parties in accordance with the provisions of this section is liable to any penalty by reason by any such false statement as aforesaid.

**Proof of dwelling or of consent unnecessary after marriage.**

29. After any marriage shall have been solemnized or contracted in the manner in this Act provided, it shall not be necessary in support of such marriage to give any proof of the actual dwelling of either of the parties previous to the marriage within Gibraltar for the time required by this Act, nor of the consent of any person whose consent thereunto is required by law, nor shall any evidence be given to prove the contrary in any suit or legal proceedings touching the validity of such marriage.

*Offences.*

**Bigamy.**

30. A person who, being married, marries any other person during the life of the former husband or wife is guilty of an offence and is liable on conviction to imprisonment for seven years:

Provided that nothing in this section shall extend to any person marrying a second time –

- (a) whose husband or wife has been continually absent from such person for the space of seven years then last past and has not been known by such person to be living within that time; or
- (b) who, at the time of such second marriage, has been divorced from the bonds of the first marriage; or
- (c) whose former marriage has been annulled or declared void by the sentence of any court of competent jurisdiction.

### **Issuing certificate to person within prohibited degrees.**

31. If the Registrar or any minister knowingly and wilfully issues any certificate for the marriage of any persons who are within the prohibited degrees of consanguinity or affinity according to the law for the time being in force in England, he is guilty of an offence, and, on conviction on indictment, is liable to imprisonment for two years and to a fine of £100.

### **Offences by minister or Registrar.**

32.(1) A person who knowingly and wilfully solemnizes any marriage without being registered as a minister under the provisions of this Act, and the Registrar or any minister who performs or solemnizes any marriage or allows any marriage to be contracted or solemnized in his presence without due publication of banns or notice or the grant of a licence or after the expiration of three months from the entry of notice or granting of such licence, or in any place not being a place of worship within the meaning of this Act (except the Registrar's Office or in pursuance of a special licence of the Minister responsible for personal status issued under section 13 or of a bishop issued under the first proviso to section 13(4)) or who knowingly and wilfully issues any certificate of marriage except within the period allowed by this Act for issuing the same, or issues any certificate or performs or solemnizes any marriage against which a caveat has been entered until such caveat has been duly removed in the manner hereinbefore provided, is guilty of an offence, and on conviction on indictment is liable to imprisonment for two years and to a fine of £100.

(2) A minister who knowingly and wilfully solemnizes any marriage in a place of worship in which he is not authorized under the provisions of section 5 to solemnize marriages is guilty of an offence and is liable, on summary conviction, to a fine of £50.

### **Destroying or injuring registers, etc.**

33. A person who unlawfully and maliciously destroys or injures, or causes to be destroyed or injured, any register book or any notice, licence, certificate, entry or statement mentioned in this Act, or any certified copy

thereof respectively, is guilty of an offence, and, on conviction on indictment, is liable to imprisonment for two years or to a fine of £100.

**Losing or injuring registers.**

34. A person having the custody of any register book or of any part thereof, who carelessly loses or injures the same or carelessly allows the same to be injured whilst in his keeping, is guilty of an offence and is liable, on summary conviction, to a fine of £50 for every such offence.

**Limitation and fiat.**

35. No prosecution under this Act shall be commenced after the expiration of three years after the offence has been committed, nor without the written consent of the Attorney-General.

*Preliminaries to Marriages outside Gibraltar.*

**Marriages in Commonwealth countries.**

36. (1) Where a marriage is intended to be solemnized or contracted in the United Kingdom or any part of the Commonwealth other than Gibraltar between a person resident in Gibraltar and a person resident in England, Scotland or Northern Ireland, or such other part of the Commonwealth, a certificate may be issued in Gibraltar by the Registrar or a minister to the party resident in Gibraltar in the like manner and subject to the completion of the like formalities by such party as if the marriage was to be solemnized or contracted in Gibraltar, and as if the parties to the marriage were both resident in Gibraltar:

Provided that no such certificate shall be issued unless the Registrar or minister has reason to believe that such certificate will be duly accepted in the place where it is to be used for the purpose of the intended marriage.

(2) In cases to which subsection (1) refers, notice in Gibraltar to the Registrar or a minister under section 7 or 8 shall only be required to be given by the party to the marriage who is resident in Gibraltar.

**Marriages under the Foreign Marriage Act, 1892.**

37.(1) Notice of a marriage intended to be contracted under the Foreign Marriage Act, 1892, shall be given to the Registrar by one of the parties intending such marriage who has had his or her usual place of abode in Gibraltar for a period of not less than one week immediately preceding or for such other period as may, from time to time, be fixed by the regulations made by the Queen in Council under the authority of the Foreign Marriage Act, 1892, or any Act, from time to time, amending the same.



(2) The Registrar shall, on the payment of the prescribed fee, receive such notice and shall post up in some conspicuous place in his office a true copy thereof, and shall keep the same so posted up during fourteen consecutive days before marriage.

(3) The Registrar, unless he is aware of any impediment or objection which should obstruct the contraction of the marriage, shall, on the payment of the prescribed fee, give a certificate that the notice has been so given and posted up as aforesaid.

#### **Marriages under foreign law.**

38. Any British national who has been resident in Gibraltar for a period of not less than twenty-one days prior to the date of the notice required to be given by this section and who desires to be married in a foreign country according to the law of that country may, if it is desired for the purpose of complying with the requirements of the law of that country to obtain the certificate hereinafter mentioned, give notice of the marriage in the prescribed form to the Registrar, and apply to him for a certificate that after proper notices have been given no legal impediment to the marriage has been shown to the Registrar to exist, and the Registrar shall, on the payment of the prescribed fees, give the certificate applied for, unless a caveat has been entered against the issue of such certificate in the manner provided by section 18, or want of any necessary consent or some other lawful impediment to the marriage is shown to the Registrar to exist.

#### *Miscellaneous*

#### **Protection of clergy.**

39. No minister of any church or denomination shall be compelled—

- (a) to accept notice of marriage from, or to enter or publish the banns of, or to issue a minister's certificate to, or to solemnize marriage between persons either of whom does not belong to his own religious community, nor otherwise than according to the rules or custom of such religious community, nor unless he shall be satisfied by the declaration of the parties or otherwise that the proposed marriage is consistent with such rules or custom;
- (b) to solemnize the marriage of any person whose former marriage has been dissolved on any ground and whose former husband or wife is still living or to permit the marriage of such person to be solemnized in the church or chapel of which he is the minister.

**Religious ceremony after lawful marriage.**

40. Nothing in this Act shall prevent any minister reading or celebrating any service of marriage in respect of parties already lawfully married to each other:

Provided always that nothing in the reading or celebration of such marriage shall be held to supersede or invalidate any marriage so previously contracted, nor shall such reading or celebration be entered as a marriage in any register required to be kept by this Act, or have any legal effect whatever:

Provided further that no such reading or celebration shall take place without the production by the parties of such evidence of the legal marriage as may be prescribed.

**Forfeiture of property acquired by marriage had by fraudulent means.**

41. If any valid marriage is had under the provisions of this Act by means of any wilfully false notice or oath, made by either party to such marriage as to any matter as to which a notice or oath is herein required, it shall be lawful for the Attorney-General, by information on the relation of a parent or guardian of a minor whose consent has not been given to such marriage, and who is responsible for any costs incurred in such suit, such parent or guardian previously making oath as is hereinafter required, to sue for a forfeiture of all estate or interest in any property accruing to the offending party by such marriage, and the Supreme Court shall have power in such suit to declare such forfeiture and thereupon direct that all such estate and interest or any such part thereof as the court shall think fit, shall be secured, in such manner as the court shall think fit, for the benefit of the innocent party, and the issue of the marriage or any of them, or if both parties to the marriage are, in the judgment of the court guilty of any such offence, then for the benefit of the issue of the marriage, subject to such provisions for the offending parties by way of maintenance or otherwise as the court shall think reasonable:

Provided that no such suit shall be instituted unless it has first been made out to the satisfaction of the Attorney-General by the oath of some person whose consent was required by law to the marriage that the circumstances of the case are such as to warrant the institution of such proceedings, and that the consent required by law for such marriage had not been obtained, and that the person making such oath had not discovered that the marriage had been contracted more than six months before making such oath.

**Saving of rights and interests.**

42.(1) No right, title, estate or interest, whether in possession or expectancy, and whether vested or contingent on the 11th day of March, 1949, existing in, to or in respect of any dignity, title or honour, or property, and no act or thing lawfully done or omitted before the 11th day of March, 1949, shall be prejudicially affected, nor shall any will be deemed to have been revoked, by reason of any marriage heretofore solemnized or contracted being made valid by section 27.

(2) Nothing contained in section 27 or subsection (1) of this section shall affect the devolution or distribution of the real or personal estate of any intestate, not being a party to the marriage, who was, on the 11th day of March, 1949, suffering and who until his death continues to suffer from mental disorder within the meaning of the Mental Health Act.

**Rules.**

43. The Minister responsible for personal status may make rules for prescribing forms, fixing fees, and generally for carrying the purposes and provisions of this Act into effect.

**SCHEDULE 1**

Section 4(2)

**BUILDINGS DEEMED TO BE REGISTERED FOR  
THE SOLEMNIZATION OF MARRIAGES.**

Aburdarham Synagogue, Parliament Lane  
Cathedral of St. Mary the Crowned, 215 Main Street  
Cathedral of the Holy Trinity, 14 Cathedral Square  
Church of Christ, Queensway  
Church of Our Lady of Sorrows, Catalan Bay  
Church of the Sacred Heart of Jesus, Lime Kiln Road  
Ets Hayim Synagogue, Irish Town  
Kingdom Hall of the Jehovah's Witnesses, Wellington Front  
King's Chapel, Convent Place  
Methodist Church, 297 Main Street  
Nefusot Yehudah Synagogue, Line Wall Road  
St. Andrew's Church of Scotland, Governor's Parade  
St. Bernard's Chapel, Europa Road  
St. Joseph's Church, Witham's Road  
St. Luke's Chapel, Royal Naval Hospital  
St. Paul's Chapel, Varyl Begg Estate  
St. Theresa's Church, Devil's Tower Road  
Shaar Hashamyim Synagogue, 47 Engineer Lane  
Shrine of Our Lady of Europe, Europa Point.  
Bethel Christian Fellowship, 47 Queensway  
Inglesia Evangelica Filadelfia, 25 City Mill Lane.

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**SCHEDULE 2**

Sections 11 (2) and 13(1).

**PARTICULARS TO BE SET OUT IN AN AFFIDAVIT OR  
STATUTORY DECLARATION FOR THE ISSUE OF THE  
REGISTRAR'S SPECIAL CERTIFICATE UNDER  
SECTION 11 OR OF A SPECIAL LICENCE  
UNDER SECTION 13.**

- 1 . The Christian or other names and surnames of the parties, their respective ranks, professions or occupations.
2. Whether the parties or either of them have or has been previously married.
3. That there is no impediment of kindred or alliance or other lawful cause, nor any suit commenced in any court of law to bar or hinder the proceeding of the proposed marriage.
4. The period during which one of the parties has had his or her usual place of abode within Gibraltar immediately preceding the date of the affidavit or statutory declaration.
5. Where either of the parties, not being a widower or widow, is under the age of eighteen years, that the consent of the person or persons whose consent to such marriage is required has been obtained and that the party under the said age, if a male is not under the age of sixteen years, and, if a female, is not under the age of fifteen years.

**Schedule 2A**

## Section 22(1A)

The form required to be presented to the Registrar under section 22(1A) before the ceremony can be performed shall be in the following, or substantially similar, terms–

“We (names) confirm that we were/will be in Gibraltar last night/tonight. We understand that if the Registrar is not satisfied with the form of proof of an overnight stay that we have provided then he will not be able to carry out the ceremony. (Date and signature of the parties).”

The forms of proof include the following–

- (a) a hotel bill covering the night before or of the ceremony;
- (b) a hotel booking form confirming that the night of the ceremony is paid for;
- (c) a statement by a resident of Gibraltar, confirming that the parties spent the night before the ceremony or will spend the night of the ceremony as his guest at the relevant address (which must be specified);
- (d) another form of proof that the parties were or will be in Gibraltar on the night before or of the ceremony.

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**SCHEDULE 3**

Section 15(1).

**CONSENT REQUIRED TO THE MARRIAGE OF A MINOR.****1. Where the Minor is legitimate.***Circumstances.**Person or persons whose consent I  
required.***I. Where both parents are living:**

- |  |  |
|--|--|
| (a) if parents living together;  | both parents.  |
| (b) if parents are divorced or separated by order of court or by agreement;  | the parent to whom the custody of the minor is committed by order of any court or by agreement, or, if the custody of the minor is so committed to one parent during part of the year and to the other parent during the rest of the year, both parents. |
| (c) if parents are not divorced or separated but one parent has been deprived of custody of the minor by order of court; | the other parent.  |
| (d) if one parent has been deserted by the other;  | the parent who has been deserted.  |
| (e) if both parents deprived of custody of the minor by order of court or by agreement.                                  | the person to whose custody the minor is committed by order of court or by agreement.  |

**2. Where one parent is dead:**

- |  |   |
|--|---|
| (a) if there is no other guardian;                           | the surviving parent.   |
| (b) if a guardian has been appointed by the deceased parent. | the surviving parent and the guardian if acting jointly, or the surviving parent or the guardian if the parent or guardian is the sole guardian of the minor. |

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|---------------------------------|--|
| 3. Where both parents are dead; | the guardian or guardians appointed by the deceased parents or by any competent court. |
|---------------------------------|--|

**II. Where the minor is illegitimate.***Circumstances.**Person or persons whose consent I  
required.*

- |                                  |                                       |
|----------------------------------|---------------------------------------|
| 1. If the mother of the minor is | the mother or, if she has by order of |
|----------------------------------|---------------------------------------|

alive .

court been deprived of the custody of the minor, the person to whom the custody of the minor has been committed by order of the court.

2. If the mother of the minor is dead.

the guardian appointed by the mother.