



CHAPTER 201.

An Act respecting the Solemnization of Marriage.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Preliminary.

Short title.

1. This Act may be cited as the “Marriage Act.” R.S. 1936, c. 166, s. 1.

Interpretation.

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

“Director” means the Director of Vital Statistics constituted under the “Vital Statistics Act”:

“Issuer of marriage licences” or “issuer” means an issuer of marriage licences appointed under this Act, or a Marriage Commissioner acting ex officio as an issuer of marriage licences:

“Marriage Commissioner” or “Commissioner” means a Marriage Commissioner appointed under this Act:

“Marriage register” means a book kept for the registration of marriages pursuant to section 23:

“Minister or clergyman” includes any priest, rabbi, elder, evangelist, missionary, or commissioned officer duly ordained or appointed by the religious body to which he belongs; and includes females as well as males:

“Religious body” means any church, or any religious denomination, sect, congregation, or society. R.S. 1936, c. 166, s. 2; 1938, c. 33, s. 2.

Solemnization of Marriage by Minister or Clergyman.

Registration of ministers and clergymen as authorized to solemnize marriage.

3. (1) Upon application, in Form M1, the Director may register any minister or clergyman as authorized to solemnize marriage.

(2) The application on behalf of a minister or clergyman shall be made by the governing authority having jurisdiction in this Province of the religious body to which he belongs; and the wording of Form M1 may be varied according to the facts, so as to set out other qualifications for registration recognized by this Act.

(3) The Director may issue to the said governing authority one or more certificates of registration in respect of each minister or clergyman registered under this Act, and may include in one certificate, in Form M6, the names of any number of registered ministers or clergymen who belong to the same religious body.

(4) The Director shall keep a register showing the name of every minister or clergyman so registered, the name of the religious body to which he belongs, and the date of his registration.

(5) The Director shall issue to each minister or clergyman registered under this Act a certificate of registration in Form M12. R.S. 1936, c. 166, s. 3; 1938, c. 33, ss. 3, 4.

Qualifications for
registration.

4. No application on behalf of any person for registration under this Act as a minister or clergyman authorized to solemnize marriage shall be granted, nor shall registration be effected, unless it appears to the satisfaction of the Director:—

- (a) That the person is a minister or clergyman duly ordained or appointed according to the rites and usages of the religious body to which he belongs, or is by the rules of that religious body deemed a duly ordained or appointed minister or clergyman by virtue of some prior ordination or appointment; and
- (b) That the person is, as such minister or clergyman, in charge of or officiating in connection with a congregation, branch, or local unit in the Province of the religious body to which he belongs, or, being resident in the Province and having been formerly so in charge of or officiating in connection with a congregation, branch, or local unit in the Province, has been superannuated or placed on the supernumerary list, or is a retired minister or clergyman in good standing of the religious body to which he belongs, though not in charge of or officiating in connection with a congregation, branch, or local unit; and
- (c) That the person is, as such minister or clergyman, duly recognized by the religious body to which he belongs as authorized to solemnize marriage according to its rites and usages; and
- (d) That the religious body to which the person belongs is sufficiently well established, both as to continuity of

existence and as to recognized rites and usages respecting the solemnization of marriage, to warrant, in the opinion of the Director, the registration of its ministers and clergymen as authorized to solemnize marriage:

Provided that in the case of a minister or clergyman who is in the Province temporarily, and who, if resident and officiating in the Province, might be registered under the foregoing provisions of this section as authorized to solemnize marriage, the Director may grant to that minister or clergyman temporary registration, and may register him as authorized to solemnize marriage during a period to be fixed by the Director; and the certificate of registration issued thereon shall state the period so fixed during which the authority to solemnize marriage may be exercised. R.S. 1936, c. 166, s. 4.

Cancellation of registration.

5. (1) Where it appears to the satisfaction of the Director that any person registered under this Act as authorized to solemnize marriage has ceased to possess the qualifications entitling him to be so registered, the Director may, with or without any hearing, cause an entry to be made in the register kept by him under this Act cancelling the registration of that person, and shall cause public notice of such cancellation to be published in one issue of the Gazette, and upon publication of the notice the authority of that person to solemnize marriage in conformity with the provisions of this Act shall cease. The Director shall cause notice of the cancellation to be mailed forthwith by registered mail to the person whose registration is cancelled, addressed to his last-known address in the Province, and that person shall, immediately upon receipt of the notice of cancellation, deliver up his certificate of registration to the Director to be cancelled.

Duty of religious bodies to notify Registrar of disqualification of registered ministers or clergymen.

(2) It shall be the duty of every religious body whose ministers or clergymen are registered under this Act as authorized to solemnize marriage to notify the Director, by notice in Form M5, from time to time of the name of every minister or clergyman so registered who has died, or who has ceased to reside in the Province, or who has in any other way ceased to possess the qualifications entitling him to be so registered. R.S. 1936, c. 166, s. 5; 1938, c. 33, s. 5.

Appeal from decision of Director.

6. Where the Director refuses the application made on behalf of any person for registration under this Act as a minister or clergyman authorized to solemnize marriage, or where the Director cancels the registration of any minister or clergyman, the person or the minister or clergyman may appeal therefrom on a question of law to a Judge of the Supreme Court within three months after the refusal or cancellation. The procedure

to be followed in respect of the appeal shall be as directed by the Judge on the application of the person or the minister or clergyman appealing. The Judge shall proceed to hear the appeal, and may make an order confirming the refusal or cancellation of registration appealed from, or directing the Director to grant the application for registration or to reinstate the registration of the minister or clergyman; and the order shall be final, and shall be binding on the Director and be given effect by him. R.S. 1936, c. 166, s. 6; 1938, c. 33, s. 6.

Publication of lists of registered ministers or clergymen.

7. The Director shall cause a list of the names of all ministers or clergymen registered under this Act as authorized to solemnize marriage to be published at least once each year in the Gazette, and a copy of the list to be furnished to each issuer of marriage licences and to each District Registrar of Births, Deaths, and Marriages. The list shall be prepared in alphabetical order of surnames, and shall indicate the religious body to which each minister or clergyman whose name appears therein belongs. Supplementary lists may be published and distributed from time to time as directed by the Director. R.S. 1936, c. 166, s. 7; 1938, c. 33, s. 7.

Authority to solemnize marriage.

8. (1) Every minister or clergyman registered under this Act as authorized to solemnize marriage shall have and may exercise authority to solemnize marriage in conformity with the provisions of this Act between any two persons neither of whom is under a legal disqualification to contract such marriage.

(2) The registration of any minister or clergyman under this Act, by the insertion of his name in the register kept by the Director, shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental to registration have been complied with, and that the minister or clergyman, so long as his registration remains in force, is a minister or clergyman within the meaning of this Act duly authorized to solemnize marriage.

(3) Except in the case of Marriage Commissioners acting under this Act, and notwithstanding the provisions of any law or Statute, general or special, to the contrary, no person shall solemnize any marriage unless he is at the time a minister or clergyman registered under this Act as authorized to solemnize marriage. R.S. 1936, c. 166, s. 8.

Requirement as to licences and banns.

9. (1) Except as provided in subsection (4), a minister or clergyman shall solemnize marriage only in pursuance of a licence or a Marriage Commissioner's certificate issued under this Act, or after publication of banns as provided in subsection (2).

Publication of banns.

(2) Publication of banns shall be made by proclaiming the intended marriage openly, in an audible voice, during Divine

service, in some church, chapel, or place of public worship of the religious body to which the minister or clergyman who is to solemnize the marriage belongs, situate within the local municipality, parish, circuit, or pastoral charge where at least one of the parties to the intended marriage has resided for the period of eight days immediately preceding, at one or more services on each of two consecutive Sundays; or where the practice or faith of any religious body substitutes Saturday, or any other day, as the usual and principal day of the week for the celebration of Divine service, then on two consecutive Saturdays, or such other days.

Certificate of publication of banns.

(3) Where the banns of marriage have not been published by the minister or clergyman who is to solemnize the marriage, that minister or clergyman shall require the parties to produce to him a certificate, in Form M11, of publication of the banns from the minister or clergyman by whom the banns were published; which certificate shall be attached to the marriage register by the minister or clergyman solemnizing the marriage.

Marriages of Quakers and those professing the Jewish religion.

(4) Subject to compliance in all respects with the provisions of this Act as to registration of ministers or clergymen and as to registration of marriages, nothing in this Act shall be construed as in any way preventing the religious Society of Friends, commonly called Quakers, or those professing the Jewish religion, from solemnizing, according to the rites and ceremonies of their respective religion or creed, a marriage between any two persons neither of whom is under any legal disqualification to contract such marriage, and either or both of whom are of the people called Quakers or of those professing the Jewish religion respectively.

Certificate of publication of banns to be filed.

(5) Every minister or clergyman who publishes the banns of marriage prior to the solemnization of a marriage shall, during the week intervening between the first and second proclamation, mail to the District Registrar of Births, Deaths, and Marriages of the registration district as constituted pursuant to the "Vital Statistics Act" in which it is intended that the marriage shall be solemnized, a certificate of publication of banns in Form M11, and the notice shall state the date upon which the banns have been and are to be published. R.S. 1936, c. 166, s. 9; 1938, c. 33, s. 8.

Requirements as to witnesses and public ceremony.

10. All marriages solemnized under the provisions of this Act by a minister or clergyman shall be in the presence of two or more credible witnesses besides himself, and the ceremony shall be performed in a public manner, and with open doors (save where otherwise permitted by licence), and both parties to the marriage shall be present in person at the ceremony. R.S. 1936, c. 166, s. 10; 1945, c. 47, s. 2.

Marriage Licences.

Forms supplied
by Director.

11. Blank forms of marriage licence for the purposes of this Act shall be supplied by the Director to all issuers of marriage licences. R.S. 1936, c. 166, s. 11.

Issuance of
licences.

12. Upon application in the manner prescribed by this Act, and upon payment to the use of His Majesty of a licence fee of one dollar in case the persons intending to marry are Indians and of five dollars in case the persons are other than Indians, and upon the expiration of the period of three days after the filing of the application, an issuer of marriage licences may sign and issue to the persons intending to marry a licence authorizing the solemnization of the marriage in the Province by a minister or clergyman pursuant to this Act. R.S. 1936, c. 166, s. 12; 1938, c. 33, s. 9.

Application
for licence.

13. (1) Application for a marriage licence shall be made by filing with the issuer of marriage licences a statutory declaration, in Form M2, made before him by one of the persons intending to marry, or, if neither of them can conveniently attend before the issuer, the statutory declaration may be made before any person authorized by law to receive statutory declarations, in which case it shall state the reason relied upon to excuse personal attendance before the issuer; and pending the issuance of the licence the statutory declaration shall be kept by the issuer on a file in his office.

Further evidence.

(2) If the issuer of marriage licences is not satisfied as to the correctness of the statements made in any statutory declaration filed with him under subsection (1), he may require the production of further declarations or other evidence to his satisfaction before issuing the licence.

Production of
witnesses.

(3) In addition to the evidence required under subsections (1) and (2), the issuer of marriage licences may require the production of witnesses to identify the persons intending to marry; and may examine under oath or otherwise the persons intending to marry or other witnesses respecting any matter pertaining to the issue of the marriage licence applied for, as the issuer may consider necessary or advisable.

Permit for
immediate marriage
in special cases.

(4) Upon it being shown by application, in Form M8, to the satisfaction of the Director, or any person authorized by him in writing in Form M9 to issue permits for the purposes of this subsection, that it is expedient and in the interests of the parties that an intended marriage be solemnized forthwith, the Director or person so authorized may by written permit, in Form M10, to be filed with the issuer of marriage licences, authorize the issuer to receive the statutory declaration referred to in subsection (1)

without it containing any statement that either of the parties had previously resided in the Province, and authorize the issuance of the marriage licence at any time before the expiration of the period of three days referred to in section 12. R.S. 1936, c. 166, s. 13; 1938, c. 33, s. 10.

Limitation as to
time of marriage.

14. Every marriage licence shall bear the date on which it is issued, and shall authorize the solemnization of the intended marriage at any time within three months from that date. R.S. 1936, c. 166, s. 14.

Protection against
irregularities in
issuance of licence.

15. No irregularity in the issue of a marriage licence obtained and acted on in good faith shall invalidate a marriage solemnized in pursuance thereof. R.S. 1936, c. 166, s. 15.

Civil Marriage before Marriage Commissioner.

Proceedings
preliminary to
civil marriage.

16. In case the parties to an intended marriage desire to be married by civil contract by a Marriage Commissioner, notice in writing, in Form M3, shall be given to the Marriage Commissioner of the district where the parties propose to marry. The notice shall be given to the Marriage Commissioner at least three days before the day of the intended marriage, and a statutory declaration, in Form M2, shall be made before him by one of the parties to the intended marriage, or, if neither of them can conveniently attend before the Commissioner, the statutory declaration may be made before any person authorized by law to receive statutory declarations, in which case it shall state the reason relied upon to excuse personal attendance before the Commissioner. Forthwith upon receipt of the notice and declaration, the notice shall be entered in a book to be kept for that purpose by the Commissioner in his office. R.S. 1936, c. 166, s. 16; 1938, c. 33, s. 11; 1945, c. 47, s. 3.

Marriage Commis-
sioner's certificate
of compliance.

17. Upon the due compliance of the parties with the provisions of the last preceding section, and upon the expiration of the period of three days after the giving of the notice, the Marriage Commissioner may grant a certificate of such compliance in Form M4; but if the Commissioner is not satisfied as to the correctness of the statements made in any declaration filed with him under that section, he may require the production of further declarations or other evidence to his satisfaction before granting the certificate, and may in addition require the production of witnesses to identify the persons intending to marry; and may examine under oath or otherwise the persons intending to marry or other witnesses respecting any matter pertaining to the granting of the certificate, as the Commissioner may consider necessary or advisable. R.S. 1936, c. 166, s. 17; 1938, c. 33, s. 12.

Non-compliance with ss. 16 and 17 not an invalidation of marriage.

18. No irregularity in the compliance with the provisions of sections 16 and 17 shall invalidate a marriage solemnized in pursuance of these sections if the marriage is entered into in good faith. 1945, c. 47, s. 4.

Contract of civil marriage.

19. (1) In case there is no lawful impediment to the marriage of the parties so proposing to marry, the marriage may be contracted in the office of and may be solemnized by the Marriage Commissioner after the expiration of the said period of three days and within three months after the date of the issuing of the certificate of compliance; but no such marriage shall be contracted or solemnized except in accordance with the following provisions:—

- (a) The marriage shall be contracted with open doors, between the hours of ten a.m. and four p.m., in the presence of two or more credible witnesses besides the Marriage Commissioner; and
- (b) Each of the parties to the marriage shall, in the presence of the Marriage Commissioner and the witnesses, declare, “I do solemnly declare that I do not know of any lawful impediment why I, A. B., may not be joined in matrimony to C. D.”; and
- (c) Each of the parties to the marriage 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].”

(2) Upon it being shown by application, in Form M8, to the satisfaction of the Director, or any person authorized by him in writing in Form M9 to issue permits for the purposes of this subsection, that it is expedient or in the interests of the parties that an intended marriage be solemnized forthwith, the Director or person so authorized may by written permit, in Form M10, to be filed with the Marriage Commissioner, authorize the Marriage Commissioner to receive the notice and statutory declaration referred to in section 16 notwithstanding that it does not contain a statement that one or other of the parties has previously resided in the Province, and authorize the granting of the certificate of compliance referred to in section 17, and the solemnization of the marriage at any time before the expiration of the period of three days referred to in subsection (1) of this section and in sections 16 and 17. R.S. 1936, c. 166, s. 18; 1938, c. 33, ss. 13, 14.

Religious ceremony after civil marriage.

20. If any parties married by civil contract by a Marriage Commissioner desire a religious ceremony in addition thereto, the Marriage Commissioner's certificate containing a copy of the registration of the marriage of the parties made under section

23 shall be sufficient evidence to any qualified minister or clergyman that he is authorized to solemnize marriage between those parties. R.S. 1936, c. 166, s. 19.

Caveats.

Caveats.

21. Any person, on payment of a fee of two dollars and fifty cents, for the use of His Majesty, may lodge a caveat with any issuer of marriage licences or Marriage Commissioner against the issuing of a licence or the granting of a certificate of compliance for the marriage of any person named therein; and if a caveat is lodged with the issuer or Commissioner, and is duly signed by or on behalf of the person who lodged the same, and states his place of residence and the ground of objection on which his caveat is founded, no marriage licence shall be issued by the issuer nor any certificate of compliance be granted by the Commissioner until he has examined into the matter of the caveat, and is satisfied that it ought not to obstruct the issuing of the licence or the granting of the certificate of compliance, as the case may be, or until the caveat is withdrawn by the person who lodged the same. R.S. 1936, c. 166, s. 20.

Appeal from issuer
or Commissioner.

22. (1) Where the issuer or the Commissioner decides against the person lodging the caveat, that person may appeal to the Director, on giving notice of his intention to appeal within two clear days after the decision, stating the grounds of the appeal; and the decision of the Director shall be final, and shall be binding on the issuer or Commissioner and be given effect by him.

Reference to
Director in
case of doubt.

(2) The issuer or the Commissioner may in case of doubt refer the matter of the caveat to the Director for his advice. R.S. 1936, c. 166, s. 21.

Registration of Marriages.

Manner of
registration.

23. (1) Every minister or clergyman and every Marriage Commissioner authorized to solemnize marriages shall at the time of each marriage solemnized by him register the marriage by entering a memorandum thereof in a book kept for that purpose pursuant to this section by him or by the religious body to which the minister or clergyman belongs; and the memorandum shall be signed by each of the parties to the marriage, and by at least two credible witnesses, and by the minister or clergyman or the Marriage Commissioner by whom the marriage was solemnized.

Supply and custody
of marriage
registers.

(2) Books for the registration of marriages under this section shall be supplied free of charge by the Director, and shall remain the property of his office. Every book so kept containing any registration of marriage shall be inspected by the Director and compared with the returns of marriages at least once in each year or as often as he considers necessary, and shall be returned

to him on demand or on the holder ceasing to be authorized to solemnize marriage.

Public inspection
of registrations.

(3) Every registration of marriage made under this section shall be open to the inspection of the public, and a certified copy of any registration shall be given by the person having the custody of the book containing the registration to any person demanding it, on payment of one dollar.

Surrender of
marriage register
on removal of
minister in charge.

(4) In the event of the removal or transfer of a minister or clergyman in charge of, or officiating in connection with, a congregation, branch, or local unit in the Province of the religious body to which he belongs, he shall surrender every marriage register issued to him pursuant to subsection (2) to his successor in the pastoral charge, or in the event of there being no successor appointed at the time of such removal or transfer, then to the District Registrar of the district in which the pastoral charge is situated. R.S. 1936, c. 166, s. 22; 1938, c. 33, s. 15.

Performance of
duties under
"Vital Statistics
Act."

24. Every minister or clergyman and every Marriage Commissioner by whom a marriage is solemnized shall also observe and perform the duties imposed on him under the "Vital Statistics Act" respecting the records of the marriage. R.S. 1936, c. 166, s. 23.

Protection of
marriage register
from loss or injury.

25. Every person having the custody of any marriage register who negligently loses or injures it, or negligently allows it to be injured, shall be liable, on summary conviction, to a penalty not exceeding fifty dollars. R.S. 1936, c. 166, s. 24.

Minors.

Consent required
to marriage of
minor.

26. (1) Except as provided in subsection (2), no marriage of any person (not being a widower or widow) under the age of twenty-one years shall be solemnized, nor shall any licence therefor be issued, unless consent in writing to the marriage is first given:—

- (a) By both parents of that person if both are living and are joint guardians, or by the parent having sole guardianship if they are not joint guardians, or by the surviving parent if one of them is dead; or
- (b) In case both parents are dead, by a lawfully appointed guardian of that person; or
- (c) In case both parents are dead, and there is no lawfully appointed guardian, by the Official Guardian or a Judge of the Supreme Court or a Judge of any County Court.

Application to
Judge where
consent is
unobtainable.

(2) In case any person whose consent under this section is required to any marriage is non compos mentis, or is out of the Province, or unreasonably or from undue motives refuses or withholds his consent to the marriage, or in case his whereabouts is

unknown and the Judge is satisfied that due diligence has been exercised to ascertain the whereabouts, the person in respect of whose marriage consent is required may apply by petition to a Judge of the Supreme Court or to a Judge of any County Court for a declaration under this section. The Judge so applied to shall proceed upon the petition in a summary manner, and if the marriage proposed appears upon cause shown to be proper, the Judge shall judicially declare the same to be proper; and his judicial declaration shall be as effectual for all purposes as if the person whose consent is so required had consented to the marriage.

Filing of consent
or declaration.

(3) The consent required by subsection (1) or the declaration of a Judge under subsection (2) shall, before a licence is issued authorizing the solemnization of the marriage, be filed with the issuer of marriage licences; or, in case the marriage is to be solemnized by a minister or clergyman after publication of banns, shall be filed with the minister or clergyman; or, in case the marriage is to be solemnized by a Marriage Commissioner, shall be filed with the Marriage Commissioner.

Proof of age before
solemnization of
marriage of
person under twenty-
one years.

(4) No marriage of any person under the age of twenty-one years shall be solemnized, nor shall any licence therefor be issued, unless a certificate of birth or other satisfactory proof of age has been produced to the issuer of marriage licences; or, in case the marriage is to be solemnized after the publication of banns, to the minister or clergyman; or, in case the marriage is to be solemnized by civil contract, to the Marriage Commissioner. R.S. 1936, c. 166, s. 25; 1937, c. 42, s. 2; 1938, c. 33, s. 16; 1948, c. 47, ss. 2, 3.

Marriage of person
under age of
sixteen years.

27. (1) Except as provided in subsection (2), no marriage of any person under the age of sixteen years shall be solemnized, nor shall any licence therefor be issued.

Order of Judge
authorizing
marriage.

(2) Where, on application to a Judge of the Supreme Court or to a Judge of any County Court, a marriage is shown to be expedient and in the interests of the parties, the Judge may, in his discretion, make an order authorizing the solemnization of and the issuing of a licence for the marriage of any person under the age of sixteen years. Every order made under this section shall be subject to the observance of the provisions of section 26, and shall be filed in like manner as provided in subsection (3) of that section in respect of a consent or declaration. R.S. 1936, c. 166, s. 26.

Validity of
marriages
preserved.

28. Nothing in section 26 or 27 contained shall invalidate any marriage. R.S. 1936, c. 166, s. 27.

Administration.

Appointment of
issuers of marriage
licences.

29. The Lieutenant-Governor in Council may appoint any District Registrar of Births, Deaths, and Marriages or any other suitable person to be an issuer of marriage licences, with authority to receive and take statutory declarations for the purposes of this Act. R.S. 1936, c. 166, s. 28; 1938, c. 33, s. 17.

Appointment of
Marriage
Commissioners.

30. The Lieutenant-Governor in Council may appoint for any district in the Province such persons as Marriage Commissioners for the purposes of this Act as he thinks advisable; and every Marriage Commissioner shall be ex officio an issuer of marriage licences under this Act, and shall have authority to receive and take statutory declarations for the purposes of this Act. R.S. 1936, c. 166, s. 29.

Remuneration of
issuers of marriage
licences.

31. An issuer of marriage licences who is not a salaried member of the Civil Service shall be entitled to receive as commission ten per centum of all fees received for licences issued by him. R.S. 1936, c. 166, s. 30.

Fee payable on
civil marriage.

32. A Marriage Commissioner shall be entitled for each marriage which is contracted under this Act in his presence and office to receive from the parties married, for the use of His Majesty, the sum of one dollar in case the parties are Indians, and the sum of seven dollars and fifty cents in case the parties are other than Indians. R.S. 1936, c. 166, s. 31; 1938, c. 33, s. 18.

Miscellaneous Provisions.

Certificates
as evidence.

33. Every certificate, or copy of any registration, or document under this Act, certified by the minister or clergyman, Director, or Marriage Commissioner extracting the same, shall be prima facie evidence of all the matters and things contained therein. R.S. 1936, c. 166, s. 32.

Banns, licence,
and certificate
unused void after
three months.

34. Where a marriage is not solemnized within three months after the date of the licence issued therefor under this Act, or the complete publication of banns, or the issuing of a Marriage Commissioner's certificate of compliance pursuant to the provisions of this Act, the licence, banns, or certificate shall be absolutely void; and the marriage shall not be solemnized unless the banns are published anew or a new licence or Marriage Commissioner's certificate of compliance is obtained in manner prescribed by this Act. R.S. 1936, c. 166, s. 33.

In matters not
herein provided for
the law of England
to prevail.

35. In all matters relating to the mode of solemnizing marriages, or the validity thereof, and the qualification of parties about to marry, and the consent of guardians or parents, or any person whose consent is necessary to the validity of such mar-

riage, the law of England as the same existed on the nineteenth day of November, 1858, shall prevail, subject always to the provisions of this Act and of any Act of the Dominion in force in the Province. R.S. 1936, c. 166, s. 34.

Issuance of licence to or solemnization of marriage of idiot, insane, or intoxicated person an offence.

36. Every issuer of marriage licences who issues a licence for a marriage, and every minister or clergyman or Marriage Commissioner who solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is an idiot or is insane or is under the influence of intoxicating liquor, shall be guilty of an offence, and shall be liable, on summary conviction, to a penalty not exceeding five hundred dollars. R.S. 1936, c. 166, s. 35.

Validation of solemnization of marriage by subsequent declaration of Director.

37. (1) Where it is made to appear by statutory declaration to the satisfaction of the Director that a marriage has been solemnized in the Province in good faith and intended compliance with this Act by a minister or clergyman who was not duly registered as authorized to solemnize marriage, and in ignorance of the requirements of this Act, and where neither of the parties to the marriage was at the time under any legal disqualification to contract the marriage, and the parties thereafter lived together and cohabited as husband and wife, and where neither of the parties has since contracted valid marriage according to law, and where the validity of the marriage has not been questioned by action in any Court, the Director may by written declaration signed by him declare that the requirements of this Act as to registration of the minister or clergyman shall be waived in respect of that marriage, and that the solemnization of the marriage shall be deemed to be and to have been from the date of the solemnization lawful and valid; and, upon publication in the Gazette of a notice by the Director of the making of the declaration, the solemnization of the marriage shall for all purposes be deemed to be and to have been from the date of the solemnization lawful and valid, notwithstanding the fact that the minister or clergyman was not at the time duly registered as authorized to solemnize marriage.

Legitimation of issue.

(2) Where a declaration has been made by the Director, and notice thereof has been published pursuant to subsection (1) in respect of a marriage, the issue of that marriage shall for all purposes be deemed to be and to have been legitimate from the time of birth; but nothing in this subsection shall affect any right, title, or interest in or to property where the right, title, or interest has vested in any person prior to the publication of the notice. R.S. 1936, c. 166, s. 36.

Validation of solemnization of marriages

38. (1) Notwithstanding any absence of legal authority to solemnize marriage in the minister or clergyman by whom the

solemnized before
September 1st, 1930.

marriage was solemnized, the solemnization of every marriage solemnized in the Province before the first day of September, 1930, in good faith, before a minister or clergyman within the meaning of section 2, between persons neither of whom was at the time under any legal disqualification to contract the marriage, and who thereafter lived together and cohabited as husband and wife, shall for all purposes be deemed to be and to have been from the date of the solemnization lawful and valid; but nothing in this section shall extend to make valid the solemnization of any marriage which has heretofore been declared invalid or dissolved by any Court, or where the parties to the marriage, or either of them, subsequently contracted valid marriage according to law.

Legitimation of issue.

(2) The issue of every marriage the solemnization of which is validated by this section shall for all purposes be deemed to be and to have been legitimate from the time of birth; but nothing in this subsection shall affect any right, title, or interest in or to property where the right, title, or interest has vested in any person prior to the commencement of this Act. R.S. 1936, c. 166, s. 37.

Validation of
certain Doukhobor
marriages.

39. (1) Where, between the seventeenth day of October, 1941, and the twenty-sixth day of April, 1945, a marriage was in good faith purported to have been contracted in accordance with the rites, usages, or ceremonies of the Doukhobor religion or creed between persons of whom both or one was of the Doukhobor religion or creed, if the ceremony was contracted in the presence of Ginnadie Goloff in his capacity as officiating witness or official witness and if neither of the contracting parties was at the time of the ceremony under any legal disqualification to contract the marriage, and if they thereafter lived together and cohabited as husband and wife, the solemnization of the marriage shall for all purposes be deemed to be and to have been from the date of the solemnization lawful and valid; but nothing in this section shall extend to make valid the solemnization of a marriage that has heretofore been declared invalid or dissolved by a Court or where the parties to the marriage or either of them subsequently contracted a valid marriage according to law.

Legitimation of issue.

(2) The issue of every marriage the solemnization of which is validated by this section shall for all purposes be deemed to be and to have been legitimate from the time of birth; but nothing in this subsection shall affect any right, title, or interest in or to property where the right, title, or interest has vested in any person prior to the commencement of this section. 1946, c. 43, s. 2.

Forms.

40. The forms in the Schedule are prescribed for the purposes of this Act, but any form may be altered or added to and new

forms may be substituted or prescribed from time to time by the Director. R.S. 1936, c. 166, s. 38.

Certificate required prior to solemnization of marriage or issuance of marriage licence.

41. (1) No issuer of marriage licences shall issue a marriage licence, nor shall any Marriage Commissioner solemnize a marriage, nor shall any minister or clergyman publish the banns of a marriage unless there has first been filed with the issuer of marriage licences or with the Marriage Commissioner or with the minister or clergyman, as the case may be, a certificate in the prescribed form in respect of each party to the intended marriage, showing:—

- (a) That a standard laboratory test has been made in a laboratory approved by the Department of Health and Welfare (Health Branch) of the blood of the party to the intended marriage, with a view to the determination of syphilis:
- (b) That the blood specimen was taken by a medical practitioner registered under the "Medical Act" within twenty days prior to the issuance of the marriage licence or the solemnization of the marriage:
- (c) That the result of the blood test has been made known to both parties to the intended marriage:

Provided that in a case of extreme urgency and need the Director, upon obtaining the approval in writing of the Provincial Health Officer, may in writing authorize the issuance of a marriage licence notwithstanding that the parties or one of the parties to the intended marriage have or has not filed certificates or a certificate pursuant to this subsection.

(2) Where a party to an intended marriage has resided for a period of eight days immediately preceding the intended solemnization of the marriage or the issuance of the marriage licence in an area of the Province defined for the purposes of this section by the Lieutenant-Governor in Council, and where a laboratory approved by the Department of Health and Welfare (Health Branch) is not conveniently accessible to that party, if that party makes and files with the Marriage Commissioner of the district where the parties purpose to marry a statutory declaration, declared before any person authorized to take statutory declarations, to the effect that to the best of his knowledge and belief he is free from syphilis in a transmissible form, the Marriage Commissioner may in writing signed by him waive the provisions of subsection (1) in respect of that party.

(3) The medical practitioner who takes a blood specimen pursuant to subsection (1) shall be entitled to demand from the person whose blood specimen is taken a fee to be fixed by the Lieutenant-Governor in Council for the taking of a blood specimen. 1938, c. 33, s. 19.

Forms.

42. The Director may from time to time prescribe forms to be used for the purpose of section 41, and shall procure all necessary printed forms for distribution. 1938, c. 33, s. 19.

Failure to secure certificate.

43. Where the provisions of subsection (1) of section 41 have not been waived pursuant to the provisions of subsection (2) of section 41, every minister or clergyman, issuer of marriage licences, or Marriage Commissioner who knowingly contravenes the provisions of subsection (1) of section 41 shall be liable, upon summary conviction, to a fine not exceeding one hundred dollars or a term of imprisonment not exceeding three months. 1938, c. 33, s. 19.

False statement.

44. Every person who wilfully or fraudulently issues a certificate under section 41 of this Act containing a false statement shall be liable, upon summary conviction, to a fine not exceeding one hundred dollars or a term of imprisonment not exceeding three months. 1938, c. 33, s. 19.

Sections to become effective on Proclamation.

45. Sections 41, 42, 43, and 44 shall come into operation upon Proclamation by the Lieutenant-Governor in Council. 1938, c. 33, s. 19.

Power to make regulations.

46. The Lieutenant-Governor in Council may make such regulations as are considered necessary or advisable for the purpose of effectually securing the due observance and carrying-out of the provisions of this Act, including regulations defining any area for the purposes of section 41. 1938, c. 33, s. 19.

Provisions relating to marriage of persons who have previously been married to each other.

47. Subject to the provisions of section 20, no minister or clergyman and no Marriage Commissioner shall solemnize a marriage between two parties who have previously been married to each other in accordance with the laws of any country, state, or province unless it is shown to the satisfaction of the Director:—

(a) That some informality exists in the proceedings connected with the previous marriage; or

(b) That the certificate of the previous marriage or the registration of the previous marriage or the marriage register containing the entry of the previous marriage has been lost or destroyed or is unavailable by reason of circumstances beyond the control of the parties; or

(c) That the parties have been divorced;

and unless the Director issues an order permitting the remarriage of the parties pursuant to the provisions of this section. The registration of the remarriage and every certificate issued in respect thereof shall contain a statement of the date and place of the previous marriage. 1938, c. 33, s. 19.

Presumption of Death.

Presumption
of death.

48. (1) Where a married person presents to the Supreme Court a petition for an order declaring that the other party to the marriage shall be presumed to be dead, and with his petition presents evidence, which may be by affidavit or viva voce, showing:—

- (a) That the other party has been continually absent from the petitioner for a period of seven years or more:
- (b) That the other party has not been heard from, or heard of, during that period, by the petitioner or, to the knowledge of the petitioner, by any other person:
- (c) That the petitioner has no reason to believe that the other party is living; and
- (d) That reasonable grounds exist for supposing that the other party is dead,—

a Judge of the Court, upon being satisfied as to the truth of the matters stated in the petition and as to the evidence submitted in support thereof, may, in his discretion, make an order declaring that the other party to the marriage shall be presumed to be dead.

(2) An order made pursuant to subsection (1) shall permit the petitioner to obtain a licence under section 12 or to procure the publication of banns under section 9 or to give notice under section 16, and, upon due compliance with all preliminary requirements in accordance with the provisions of this Act in respect of the form of marriage to be solemnized, to enter into the solemnization of marriage; but the order shall have no other legal effect.

(3) Where an order has been made pursuant to subsection (1), upon fulfilment of any preliminary requirements under this Act:—

- (a) A minister or clergyman may publish the banns in respect of a marriage to which the petitioner is an intended party:
- (b) An issuer of marriage licences may issue a licence authorizing the solemnization of a marriage to which the petitioner is an intended party:
- (c) A Marriage Commissioner may grant a certificate of compliance under section 17 in respect of a marriage to which the petitioner is an intended party.

(4) No banns shall be published and no licence shall be issued and no certificate of compliance shall be granted under subsection (3):—

- (a) Unless the petitioner first delivers to the minister, clergyman, issuer of marriage licences, or Marriage Commissioner, as the case may be, a copy of the order

of presumption of death certified by the District Registrar or Deputy District Registrar of the Court, and also a statutory declaration by him in Form M13; and

- (b) Unless the other party to the intended marriage makes and delivers to the minister, clergyman, issuer of marriage licences, or Marriage Commissioner, as the case may be, a statutory declaration in Form M14.

The minister, clergyman, issuer of marriage licences, or Marriage Commissioner, as the case may be, shall forward the certified order of presumption of death and both statutory declarations to the Director of Vital Statistics. The requirements of this subsection are in addition to all other requirements under this Act. 1944, c. 24, s. 2.

SCHEDULE.

FORM M1.

(Section 3 (1), (2).)

APPLICATION FOR REGISTRATION OF MINISTER OR CLERGYMAN.

To the Director of Vital Statistics, Victoria, B.C.:

The _____, being a religious body within the meaning of the "Marriage Act," duly established within the Province of British Columbia, and having well-recognized rites and usages respecting the solemnization of marriage, hereby makes application by its governing authority for the registration of the under-named person, whose place of residence, pastoral office, and pastoral charge is set out herein, as a minister or clergyman authorized to solemnize marriage under the said Act:—

Name of minister or clergyman _____

Residence _____

Pastoral office _____

Pastoral charge _____

The said person is duly ordained or appointed to his pastoral office hereinbefore set out according to the rites and usages of the religious body making this application, or is by its rules deemed to be so ordained or appointed by reason of some prior ordination or appointment, and is a minister or clergyman within the definition in section 2 of the said Act.

The said person is in charge of or officiates in connection with his pastoral charge hereinbefore set out, the same being a congregation, branch, or local unit of the said religious body.

According to the rites and usages of the said religious body, the said person, acting as such minister or clergyman, is recognized as authorized, when called upon, to solemnize marriage.

The undersigned, being the governing authority duly authorized to act in the premises on behalf of the said religious body, hereby certifies to the correctness of the statements herein contained.

Dated at the day of , 19 .

(Signature.)_____

(Position.)_____

(Address.)_____

Date received . No. .

Certificate issued .

Remarks .

Filing Clerk.

FORM M2.

(Sections 13 (1) and 16.)

STATUTORY DECLARATION.

CANADA: }
PROVINCE OF BRITISH COLUMBIA. }
To Wit: }

I, , do solemnly declare that:—

1. A marriage is intended to be solemnized in the Province of British Columbia between the following described parties, of whom I am one, namely:—

Intended bridegroom [*name in full*] .

Present residence [*give full address*] .

Age . Condition [*bachelor, widower, or divorcé, or man previously married whose wife has been presumed to be dead by order of the Supreme Court*] .

Place of birth [*give town and country*] .

Occupation .

and

Intended bride [*name in full*] .

Present residence [*give full address*] .

Age . Condition [*spinster, widow, or divorcée, or woman previously married whose husband has been presumed to be dead by order of the Supreme Court*] .

Place of birth [*give town and country*] .

Occupation .

2. According to the best of my knowledge and belief, there is no affinity, consanguinity, or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

3. The said has resided at , in the Province of British Columbia, for the period of eight days immediately preceding the making of this declaration.

4. [*If either or both of the parties are under the age of twenty-one years, add*]: The said , being under the age of twenty-one years, consent

in writing to the said marriage has been given or will be obtained as required by section 26 of the "Marriage Act."

†

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

(Signed) _____

Declared before me at _____, in the }
Province of British Columbia, this }
day of _____, 19 . }

(Signed) _____

(Official position.) _____

† NOTE.—If the statutory declaration is made before a person other than an Issuer of Marriage Licences or a Marriage Commissioner, it must contain a statement of the reason relied on in excuse of personal attendance. (See subsection (1) of section 13 and section 17 of the "Marriage Act.")

FORM M3.

(Section 16.)

NOTICE OF MARRIAGE.

To the Marriage Commissioner of the District of _____, in the Province of
British Columbia:

I hereby give you notice that a marriage is intended to be had on the
day of _____, 19 , between the following described parties, of whom I am
one, namely:—

Intended Bridegroom.

Full name . . .

Full address . . .

Age . . . Condition [*bachelor, widower, or divorcé, or man previously
married whose wife has been presumed to be dead by order of the Supreme
Court*] . . .

Occupation . . .

Intended Bride.

Full name . . .

Full address . . .

Age . . . Condition [*spinster, widow, or divorcée, or woman previously
married whose husband has been presumed to be dead by order of the
Supreme Court*] . . .

Occupation . . .

Witness my hand this _____ day of _____, 19 .

(Signed) _____

FORM M4.

(Section 17.)

MARRIAGE COMMISSIONER'S CERTIFICATE OF COMPLIANCE.

I, _____, Marriage Commissioner of the District of _____, in the
Province of British Columbia, do hereby certify that, on the _____ day

of _____, 19____, notice was duly entered in the Marriage Notice Book kept in my office, of the marriage intended between the parties therein named and described, delivered under the hand of _____, one of the parties, that is to say:—

Intended Bridegroom.

Full name _____
 Address _____
 Age _____ Condition [*bachelor, widower, or divorcé, or man previously married whose wife has been presumed to be dead by order of the Supreme Court*]
 Occupation _____

Intended Bride.

Full name _____
 Address _____
 Age _____ Condition [*spinster, widow, or divorcée, or woman previously married whose husband has been presumed to be dead by order of the Supreme Court*]
 Occupation _____

Notice entered on the _____ day of _____, 19____.

Certificate given on the _____ day of _____, 19____.

The issue of this certificate has not been forbidden by any person authorized to forbid the issue thereof.

Witness my hand at _____, B.C., this _____ day of _____, 19____.

Marriage Commissioner.

This certificate will be void unless the marriage is solemnized within three months after the date of the certificate.

FORM M5.

(Section 5 (2).)

NOTICE.

To the Director of Vital Statistics, Victoria, B.C.:

SIR:

Name of minister or clergyman _____
 Denomination _____
 Residence _____
 Pastoral office _____
 Pastoral charge _____
 Certificate number _____

has

 [State if transferred, died, or nature of disqualification.]

[In case of a transfer.]

New residence _____

New pastoral charge _____

Dated at _____, B.C., this _____ day of _____, 19____.

(Signature.) _____

(Position.) _____

(Address.) _____

FORM M6.
(Section 3 (3).)

CERTIFICATE OF REGISTRATION.

OFFICE OF DIRECTOR OF VITAL STATISTICS,
VICTORIA, B.C.

_____, 19 .
SIR,—The following ministers or clergymen under your authority have
been registered with this Department on the _____ day of _____, 19 ,
as duly authorized to solemnize marriage within the Province of British
Columbia:—

Name.	Address.	Certificate No.

Certified correct.

Director of Vital Statistics.

FORM M7.

COVERING LETTER AND ACKNOWLEDGMENT.

OFFICE OF DIRECTOR OF VITAL STATISTICS,
VICTORIA, B.C.

_____, 19 .
SIR,—Enclosed please find Certificate of Registration under the Marriage
Act No. _____, which is issued to you at the request of the _____.
Kindly sign the attached receipt and return to me, and oblige.
Yours obediently,

_____, per _____,
Director of Vital Statistics.

_____, 19 .
Director of Vital Statistics, Victoria, B.C.:

SIR,—I beg to acknowledge receipt of Certificate of Registration under the
Marriage Act No. _____.
(Signature.) _____
(Address.) _____

FORM M8.
(Sections 13 (4) and 19 (2).)

APPLICATION FOR PERMIT FOR AN IMMEDIATE MARRIAGE.

To _____, B.C.:

I hereby apply for a permit, pursuant to subsection (4) of section 13 [or
subsection (2) of section 19] of the "Marriage Act," authorizing the issu-

ance of a marriage licence for an intended marriage [or solemnization of an intended marriage by civil contract] between me, , of , and , of .

The following are the reasons why it is expedient and in the interests of the parties that the said intended marriage be solemnized forthwith:—

Dated this day of , 19 .

Applicant.

FORM M9.

(Sections 13 (4) and 19 (2).)

AUTHORITY TO ISSUE PERMITS FOR AN IMMEDIATE MARRIAGE.

This is to certify that [name], [address], is authorized to issue permits to Issuers of Marriage Licences and Marriage Commissioners, for the issuance of a marriage licence for [or the solemnization by civil contract of] an immediate marriage under section 13, subsection (4) [or subsection (2) of section 19], of the "Marriage Act."

Dated at Victoria, B.C., this day of , 19 .

Director of Vital Statistics.

FORM M10.

(Sections 13 (4) and 19 (2).)

PERMIT FOR AN IMMEDIATE MARRIAGE.

To , Issuer of Marriage Licences, , B.C.:

This permit, granted pursuant to subsection (4) of section 13 [or subsection (2) of section 19] of the "Marriage Act," in respect of the intended marriage between , and , of , hereby authorizes you to receive the statutory declaration referred to in subsection (1) of section 13 [or section 16] without it containing any statement that either of the parties to the said intended marriage has previously resided in the Province, and further authorizes the issuance of the marriage licence [or the solemnization of an intended marriage by civil contract] in respect of the said intended marriage at any time before the expiration of the period of three days referred to in section 12 [or sections 16, 17, and 19] of the said Act.

Dated at , B.C., this day of , 19 .

*Under authority from the Director
of Vital Statistics.*

FORM M11.

(Section 9 (3) and (5).)

CERTIFICATE OF PUBLICATION OF BANNS.

I hereby certify that on the day of , 19 , the banns of marriage of , of , B.C., and , of , B.C.,

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were duly published by me in Church, at , B.C., and no impediment was alleged, and that on the day of , 19 , the said banns of marriage will be published for a second time. I further certify that I verily believe that the said , one of the parties, has had his [or her] place of abode at , in the Province of British Columbia, for a period of eight days immediately preceding the first day of the publication of these banns.

Witness my hand this day of , 19 .

Incumbent of Church, , B.C.

FORM M12.
(Section 3 (5).)

CERTIFICATE OF REGISTRATION UNDER THE "MARRIAGE ACT."

This is to certify that [name], of [address], in the Province of British Columbia, a minister or clergyman recognized by the [name of religious denomination], being a religious body within the meaning of the "Marriage Act," was, on the day of , 19 , registered with the Director of Vital Statistics, at Victoria, B.C., pursuant to section 3 of the "Marriage Act," and is duly authorized to solemnize marriage within the Province of British Columbia.

Dated at Victoria, B.C., this day of , 19 .

Director of Vital Statistics.

FORM M13.
(Section 48.)

STATUTORY DECLARATION REGARDING PRESUMPTION OF DEATH.

CANADA:
PROVINCE OF BRITISH COLUMBIA. }
To Wit:

I, , do solemnly declare that:—

1. A marriage is intended to be solemnized in the Province of British Columbia between the following described parties, of whom I am one, namely:—

Intended bridegroom [name in full] .
Present residence [give full address] .
and

Intended bride [name in full] .
Present residence [give full address] .

2. I, the undersigned, was married to [name in full] on [date] at [place].

3. I have obtained from the Supreme Court an order declaring that the other party to my marriage, [name in full], is presumed to be dead.

4. I still have no reason to believe that the other party to my marriage is living.

5. I have given careful consideration to:—

- (a) The question of the validity of the proposed form of marriage between [*the other party to the intended marriage*] and myself if [*person presumed to be dead*] is not in fact dead at the time of the solemnization of the said proposed form of marriage:
- (b) The situation that will exist if the said proposed form of marriage shall be found to be invalid by reason of the fact that [*person presumed to be dead*] is not in fact dead at the time of the solemnization thereof.

6. I have acquainted [*the other party to the intended marriage*] with the true particulars regarding the Supreme Court order of presumption of death of [*person presumed to be dead*].

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

Declared before me at the

of _____,
in the Province of British Columbia,
this _____ day of _____, A.D. .

*A Commissioner for taking Affidavits
within British Columbia.*

FORM M14.

(Section 48.)

STATUTORY DECLARATION REGARDING PRESUMPTION OF DEATH BY THE
OTHER PARTY TO THE INTENDED MARRIAGE.

CANADA: _____
PROVINCE OF BRITISH COLUMBIA. }
To Wit: _____

I, _____, do solemnly declare that:—

1. A marriage is intended to be solemnized in the Province of British Columbia between the following described parties, of whom I am one, namely:—

Intended bridegroom [*name in full*] .

Present residence [*give full address*] .

and

Intended bride [*name in full*] .

Present residence [*give full address*] .

2. I have been informed by [*petitioner for order of presumption of death*] of the presumption of death of [*person presumed to be dead*] and the circumstances thereof.

3. I have no reason to believe that [*person presumed to be dead*] is still living.

4. I have given careful consideration to:—

- (a) The question of the validity of the proposed form of marriage between [*petitioner for order of presumption of death*] and myself if [*person presumed to be dead*] is not in fact dead at the time of the solemnization of the said proposed form of marriage:

- (b) The situation that will exist if the said proposed form of marriage shall be found to be invalid by reason of the fact that [*person presumed to be dead*] is not in fact dead at the time of the solemnization thereof.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

Declared before me at the

of

in the Province of British Columbia,

this

day of

, A.D. .

*A Commissioner for taking Affidavits
within British Columbia.*

R.S. 1936, c. 166, Sch.; 1938, c. 33, ss. 20, 21; 1944, c. 24, ss. 3, 4.

VICTORIA, B.C.:

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