

Act No. 15, 1899.

MARRIAGE.

An Act to consolidate the Acts relating to
Marriage. [20th November, 1899.]

BE it enacted by the Queen's Most Excellent Majesty by and with
the advice and consent of the Legislative Council and Legislative
Assembly of New South Wales in Parliament assembled and by
the authority of the same as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Marriage Act 1899" and is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1, 2.

PART

*Marriage.***PART II.—CELEBRATION OF MARRIAGES—***Generally*—ss. 3–8.*In the case of Minors*—ss. 9–11.**PART III.—MARRIAGES NOT TO BE AVOIDED OR AFFECTED FOR CERTAIN REASONS—ss. 12–15.****PART IV.—VALIDATION OF CERTAIN MARRIAGES—ss. 16–18.****PART V.—MARRIAGES NOT LEGALISED—s. 19.****PART VI.—QUAKERS AND JEWS—s. 20.****PART VII.—PENALTIES—ss. 21–27.**

2. (1) The Acts mentioned in the First Schedule to this Act Repeal.
are to the extent therein expressed hereby repealed. First Schedule.

(2) All persons appointed under the Acts hereby repealed Officers under Acts
and holding office at the time of the passing of this Act shall be hereby repealed.
deemed to have been appointed hereunder. Saving clause.

(3) All forms prescribed under any of the Acts hereby
repealed and valid at the time of the passing of this Act shall be
deemed to be valid hereunder.

PART II.**CELEBRATION OF MARRIAGES.***Generally.*

3. (1) No marriage shall be celebrated except by some minister Persons authorised
of religion ordinarily officiating as such whose name to celebrate
designation and marriages.
usual residence have been and then continue registered in the office of 19 Vic. No. 30
the Registrar-General for marriages in Sydney or by a district registrar. ss. 2 and 3.

(2) Where the parties to be married sign before the registrar Marriages before
for marriages of the district within which the intended wife ordinarily registrar.
resides a declaration in the form set forth in the Second Schedule Second and Third
hereto the marriage may be celebrated between such parties by such Schedules. *Ibid.* s. 3.
district registrar in the form of words set forth in the Third Schedule
hereto to be repeated and signed by the parties to such marriage
respectively.

4. Every marriage shall be celebrated in the presence of two Witnesses.
witnesses at least. *Ibid.* s. 7.

5. (1) No marriage shall be celebrated unless and until each of Declaration.
the parties about to be married has made on oath or solemn affirmation Fourth Schedule.
before the minister or registrar celebrating the marriage a declaration 55 Vic. No. 34 s. 5 (1).
in the form of the Fourth Schedule hereto.

(2) Such declaration shall be indorsed upon the certificate Signing declaration.
of marriage hereinafter prescribed and shall be signed by each of the 55 Vic. No. 34 ss.
parties about to be married and by the minister or registrar. 5 (1) & 9.

(3)

*Marriage.***Certificate.****Fourth Schedule.**55 Vic. No. 34 s. 5
(ii).**Signing certificate.**

19 Vic. No. 30 s. 7.

35 Vic. No. 34 s. 5 (i).

Copy certificate for parties.

19 Vic. No. 30 s. 7.

Essentials for valid marriage.*Ibid.* s. 5.**Transmission of original certificate.***Ibid.* s. 7.**Registrar-General to supply forms.**

19 Vic. No. 34 s. 8.

55 Vic. No. 34 s. 5.
(iii).**Consent in case of minority.**

19 Vic. No. 30 s. 10.

Appointment of justices to consent.*Ibid.* s. 11.

(3) Every certificate of marriage shall be in the form of the Fourth Schedule hereto and every such certificate and every copy thereof shall have indorsed thereon the form of declaration set forth in the said Schedule and at the foot of every certificate there shall be printed in red ink a note in the form of the said Schedule referring to such declaration.

(4) After the celebration of the marriage the certificate of marriage shall be signed by the minister or registrar and by the parties and by the witnesses.

(5) Immediately after the marriage the minister or registrar shall deliver a copy of such certificate signed by himself to one of the parties to the marriage.

6. Every marriage celebrated by any such minister or registrar as aforesaid after oath or solemn affirmation so made shall be a legal and valid marriage to all intents and purposes and no other marriage except as hereinafter provided shall be valid for any purpose.

7. Within one month after the marriage the minister celebrating the marriage shall transmit the original certificate to the registrar of the district within which the marriage was celebrated.

8. The Registrar-General shall at the public expense furnish forms of marriage certificates with the declaration indorsed thereon as prescribed by this Act to every district registrar of marriages and to every duly registered officiating minister.

In the case of Minors.

9. If either party to any intended marriage not being a widower or widow is under the age of twenty-one years such marriage shall not take place without production to the minister or registrar about to celebrate the same—

- (a) of the written consent of the father of such party if within New South Wales or if not within New South Wales then of a guardian appointed by the father or
- (b) if there be no such guardian in New South Wales then the written consent of the mother of such party if within New South Wales or
- (c) where there is no such parent or guardian in New South Wales or he or she is incapable of duly consenting by reason of distance habitual intoxication or mental incapacity then the written consent of some justice of the peace appointed for that purpose. Such justice shall make inquiry on oath as to the facts and circumstances of the case before giving his consent.

10. (1) For the purposes mentioned in the foregoing section the Judges of the Supreme Court shall appoint from time to time one or more justice or justices of the peace in every registrar's district who shall by virtue of such appointment give consent in such cases as aforesaid.

(2)

Marriage.

(2) Every such appointment shall be notified by the said Judges in the Gazette. Notification of appointment.

11. When a marriage is celebrated upon the production of any such written consent as aforesaid a statement of the fact of such consent shall be indorsed on the certificate of such marriage and on the copy thereof signed respectively by the minister or registrar celebrating the same. Consent to be endorsed on certificate. 19 Vic. No. 30 s. 12.

PART III.

MARRIAGES NOT TO BE AVOIDED OR AFFECTED FOR CERTAIN REASONS.

12. No marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a minister or ordinarily officiating minister of religion if either of the parties to the marriage at the time bona fide believed that he was such ordinarily officiating minister. Celebration by person not a minister. Ibid. s. 6.

13. No marriage shall be deemed to have been unduly celebrated by reason only of any mere defect or error in the declaration made respecting the same where the identity of the parties to the marriage is not in question. Defect or error in declaration. Ibid. s. 13.

14. No marriage shall be affected by reason of the omission by the minister celebrating the same to cause his name designation or usual residence to be registered according to this Act. Omission of minister to register his name &c. Ibid. s. 21.

15. No marriage celebrated in New South Wales shall be deemed to be or be declared invalid by reason only of the fact that both or either of the parties to such marriage have not made a declaration as required by this Act. Omission to make declaration. 55 Vic. No. 34 s. 6.

PART IV.

VALIDATION OF CERTAIN MARRIAGES.

16. Every marriage celebrated in New South Wales before the first day of March one thousand eight hundred and fifty-six by any minister of religion or person ordinarily officiating as such shall be and be deemed to have been from the time of the celebration thereof a perfectly legal and valid marriage to all intents and purposes notwithstanding any non-compliance with forms or other irregularity attending the celebration. Marriages before 1st March 1856. 19 Vic. No. 30 s.

17. No marriage celebrated in New South Wales on or after the first day of March one thousand eight hundred and fifty-six shall be deemed or declared invalid by reason only of the fact that both or either of the parties to such marriage may not have made the declaration required by section four of the Act nineteenth Victoria number thirty: Marriages on or after 1st March 1856. 55 Vic. No. 34 s. 2 (i) (ii).

Marriage.

Provided that no marriage declared invalid by any competent Court before the passing of this Act shall be validated by anything herein contained.

Marriage with
deceased wife's
sister.

39 Vic. No. 20 s. 1.

18. Every marriage otherwise lawful heretofore or hereafter celebrated in New South Wales between any person and the sister of his deceased wife shall be deemed and is hereby declared to have been and to be valid and of full force and effect any law or custom to the contrary notwithstanding.

PART V.

MARRIAGES NOT LEGALISED.

Certain marriages
not legalised.

19 Vic. No. 30 s. 15.

55 Vic. No. 34 s. 2
(ii).

19. Nothing in sections six or sixteen contained shall legalise any marriage

- (a) heretofore declared invalid by any competent Court
- (b) where either party thereto had another wife or husband then living
- (c) which would have been or would be void but for the provisions of the said sections by reason of relationship kindred or alliance or of fraud or incapacity to contract marriage
- (d) where (the same being at the time of its celebration invalid) either of the parties thereto afterwards and before the thirtieth day of November one thousand eight hundred and fifty-five intermarried with some other person.

PART VI.

QUAKERS AND JEWS.

Act not to apply.

19 Vic. No. 30 s. 8.

55 Vic. No. 34 s. 10.

Such marriages
valid.

19 Vic. No. 30 s. 9.

Certificate of such
marriage to be sent
to registrar.

Ibid. s. 8.

20. (1) Except as hereinafter provided nothing in this Act shall extend to any marriage between parties of whom both are Quakers or Jews.

(2) Every marriage celebrated between parties being both Quakers or both Jews shall be as legal and valid as if duly solemnised under the provisions of this Act if such marriage was when celebrated a valid marriage according to the usages of the Quakers or Jews as the case may be.

(3) A certificate of every such marriage shall within ten days next following be transmitted to the registrar of the district within which it was celebrated by the person celebrating the marriage or by one of the parties thereto stating the date and place of such marriage and the name designation and usual residence of each of those parties.

PART

Marriage.

PART VII.

PENALTIES.

21. (1) Every minister or person officiating as such who celebrates any marriage knowing that his name designation or usual residence has not been or is not then duly registered shall be guilty of a misdemeanour and being convicted thereof shall be liable to a fine not exceeding five hundred pounds either alone or with imprisonment not exceeding five years or

(2) If the omission was accidental or by inadvertence shall be liable to a fine not exceeding twenty pounds to be recovered by proceeding in a summary way before two justices of the peace.

22. (1) Every minister or person having celebrated any marriage who fails to comply with the provisions of this Act or any of them respecting the certificate to be transmitted to the district registrar shall be liable to a fine of not less than ten and not exceeding fifty pounds to be recovered by proceeding in a summary way before two justices of the peace.

(2) In cases within the twentieth section of this Act where no person has celebrated the marriage other than the parties thereto themselves the like penalty shall attach to the husband in case the certificate thereby required is not duly transmitted.

23. Every minister district registrar or other person who celebrates or professes or attempts to celebrate any marriage in any case contrary to any of the provisions of this Act or where any provisions or requirements of this Act have not been complied with shall be guilty of a misdemeanour and being convicted thereof shall be liable to a fine not exceeding five hundred pounds either alone or with imprisonment not exceeding five years.

24. Every person who goes through the ceremony of marriage without having first made and signed the declaration required by this Act shall be guilty of a misdemeanour.

25. Every minister district registrar or other person who celebrates or professes or attempts to celebrate marriage in the case of any person under the age of twenty-one years not being a widower or widow without a written consent as required by section nine hereof knowing him or her to be under that age or knowing that the consent produced is not by the appropriate person shall be guilty of a misdemeanour and being convicted thereof shall be liable to a fine not exceeding five hundred pounds either alone or with imprisonment not exceeding five years.

26. Every person who—

(a) wilfully marries a person under the age of twenty-one years and whom he or she knows to be under that age without having previously obtained a written consent as required by section nine hereof or

(b)

Minister celebrating marriage when unregistered.
19 Vic. No. 30 ss. 21 and 17.

Omission to transmit certificate.
Ibid. s. 22.

Under s. 20.
Ibid.

Celebrating marriage without complying with Act.
Ibid. s. 17
55 Vic. No. 34 s. 7.

Parties marrying without making declaration.
55 Vic. No. 34 s. 8.

Knowningly celebrating marriage of a minor without consent.
19 Vic. No. 30 s. 17.

Marriage.

- (b) induces or endeavours to induce any minister registrar or other person to celebrate marriage between parties one of whom he or she knows to be under age without such consent or
- (c) abets or assists the offender in any such act knowing the same to be illegal

shall be guilty of a misdemeanour and be liable to such punishment by fine not exceeding five hundred pounds or imprisonment not exceeding five years or both as the Court may award.

Affirmation instead of oath.

10 Vic. No. 30 s. 18.

Perjury.
Ibid.

27. (1) Every person who objects to take an oath under the provisions of this Act may make in lieu thereof a solemn affirmation or be examined as the case may be upon his solemn affirmation.

(2) Any person who wilfully makes any false statement on oath or by solemn affirmation before any minister or registrar or before any justice of the peace appointed under any of the provisions of this Act or intended or purporting so to be shall be deemed guilty of perjury and be liable to prosecution and punishment accordingly.

SCHEDULES.

See. 2.

FIRST SCHEDULE.

| Acts repealed. | Title or short title. | Extent of repeal. |
|--------------------|---|-------------------------------|
| 19 Vic. No. 30 ... | An Act to amend and consolidate the Laws affecting the Solemnization of Marriage. | The whole unrepealed portion. |
| 39 Vic. No. 20 ... | An Act to declare valid the marriage of a man with the sister of his deceased wife. | The whole unrepealed portion. |
| 55 Vic. No. 34 ... | The "Marriages Validation and Marriage Law Amendment Act of 1892." | The whole. |

Section 3 (2).

SECOND SCHEDULE.

Form of Declaration to authorise Marriage before District Registrar.

WE *Thomas Williams* of [usual place of residence and designation or employment] and *Mary Edwards* of [usual place of residence and employment] do hereby declare that we are desirous of being married but that we conscientiously object to be married by a minister of religion [or "but that there is no minister of religion accessible for the purpose of solemnising our marriage"].

Signed by the parties this day of 18 before me

(Signatures.)

Marriage.

THIRD SCHEDULE.

Section 3 (2).

Form of Marriage before Registrar.

I *Thomas Williams* of [usual place of residence and designation or employment] do hereby declare in the presence of A.B. registrar of marriages for the district of *Bathurst* that I take *Mary Edwards* of [usual place of residence and designation or employment] to be my lawful wife And I the said *Mary Edwards* do declare that I take the said *Thomas Williams* to be my lawful husband.

(Signatures.)

FOURTH SCHEDULE.

Section 5 (1) (3),

Declaration before District Registrar or Minister to be indorsed on marriage certificate form.

I *Thomas Williams* of [place of residence condition and designation or employment] being duly sworn do on my oath declare [or if objecting to take an oath do solemnly and sincerely declare and affirm] that I have attained the age of twenty-one years [or if not of the age of twenty-one years and not a widower] that I have duly obtained the written consent required by the Marriage Act No. 1899 and I believe there is no impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or the want of consent of parents or guardians or any other lawful cause to my being married to [Mary Edwards] of [place of residence condition and designation or employment] daughter of [James Edwards] of [place of residence and designation] and I hereby further declare that I have full knowledge that if I swear or affirm falsely I shall be guilty of perjury and be liable to be punished accordingly.

(Signature of Thomas Williams.)

And I the said Mary Edwards [*condition*] being duly sworn do on my oath declare [*or if objecting to take an oath*] do solemnly and sincerely declare and affirm] that I have attained the age of twenty-one years [*or if not of the age of twenty-one years and not a widow*] that I have duly obtained the written consent required by the Marriage Act No. 1899 and I believe there is no impediment or lawful objection by reason of any kindred relationship or alliance or any former marriage or the want of consent of parents or guardians or any other lawful cause to my being married to the said *Thomas Williams*. And I hereby further declare that I have full knowledge that if I swear or affirm falsely I shall be guilty of perjury and be liable to be punished accordingly.

(Signature of Mary Edwards.)

(Signature and designation of minister or registrar.)

Certificate of marriage.

I [name of minister or registrar] being [designation] do hereby certify that I have this day at [place] duly celebrated marriage between [name designation and residence of husband] and [name designation and residence of wife] after declaration duly made before me as by law required.

Dated this _____ day of _____ 18____

(Signature of minister or registrar.)

A.B.

Signatures of parties to marriage. { C.D.
E.F.

*Signatures of G.H.
witnesses. J.K.*

NOTE (to be printed in red ink)—“The declaration on the back hereof must be duly made and signed otherwise the parties and the officiating minister or registrar are liable to the punishment by law provided in that behalf.”