

MARRIAGE AMENDMENT ACT.

Act No. 1, 1925.

An Act to declare the impugning of marriages celebrated in accordance with the Marriage Act, 1899, to be unlawful; to make certain provisions as to certificates of marriage; to declare marriages between a woman and her deceased husband's brother valid in law; to amend the Marriage Act, 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 4th April, 1925.]

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No. 1.

BE it enacted by the King'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:—

1. This Act may be cited as the "Marriage Amendment Act, 1925," and shall be read with the Marriage Act, 1899, hereinafter called the Principal Act.

Short title.

2. Part IV of the Principal Act is amended by inserting the following new section next after section eighteen:—

Amendment of
Part IV of
Marriage Act,
No. 15 of 1899,
new s. 18A.

18A. (1) Every marriage, otherwise lawful, celebrated in New South Wales before or after the passing of the Marriage Amendment Act, 1925, between any person and the widow of his deceased brother 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.

Marriage
with deceased
brother's
widow.

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(2) This section shall not validate any such marriage where a decree of nullity has, prior to the passing of the Marriage Amendment Act, 1925, been pronounced in respect thereof by a court of competent jurisdiction.

(3) Any petition for such a decree pending at the said date may be proceeded with and determined as if this section had not been passed.

3. Part VII of the Principal Act is amended by the addition at the end of the following new sections :—

Amendment of
Part VII of
same Act.
New sections
28, 29, 30, 31.
Offence to
deny or
impugn
validity of
lawful
marriages.
N.Z. Act,
No. 65 of
1920, s. 7.

28. (1) Every person commits an offence against this Act, and is liable on summary conviction to a penalty not exceeding one hundred pounds, either alone or with imprisonment for a term not exceeding twelve months, who—

- (a) alleges, expressly or by implication, that any persons lawfully married are not truly husband and wife; or
- (b) alleges, expressly or by implication, that the issue of any lawful marriage is illegitimate or born out of true wedlock.

(2) “Alleges” in this section means making any verbal statement, or publishing or issuing any printed or written statement, or in any manner authorising the making of any verbal statement, or in any manner authorising or being party to the publication or issue of any printed or written statement.

(3) A person shall not be deemed to make an allegation contrary to the provisions of this section by reason only of using in the solemnisation of a marriage a form of marriage service which at the commencement of the Marriage Amendment Act, 1925, was in use by the religious denomination to which such person belongs, or by reason only of the printing or issue of any book containing a copy of a form of marriage service in use at the commencement of the said Act by any religious denomination.

29. Every minister or person officiating as such **George V,**
 commits an offence against this Act and is liable **No. 1.**
 upon summary conviction to a penalty not exceed- Offence to
 certify upon
 remarriage
 of persons
 already
 lawfully
 married.
 ing one hundred pounds, either alone or with
 imprisonment for a term not exceeding twelve
 months, who, having performed any ceremony of
 marriage between two persons who are already
 married in accordance with the provisions of this
 Act, and whose marriage has not been dissolved—

- (a) uses the form of certificate of marriage as set out in the Fourth Schedule to this Act; or
- (b) certifies that a marriage has been celebrated by him between the said persons, without in any certificate he may give making reference to the fact that the parties have already been lawfully married.

30. (1) The Governor may, by notification in Deprivation
 of right to
 celebrate
 marriages.
 the Gazette, deprive any person of the right to
 celebrate marriages under this Act, where such
 person—

- (a) is convicted of any felony or misdemeanour, or of any breach of this Act; or
- (b) is guilty of any misconduct in the celebration of any marriage; or
- (c) is, in the opinion of the Minister, making a business of celebrating marriages for the purpose of profit or gain, irrespective of carrying out the ordinary duties of a minister of religion;

and thereupon the Registrar-General shall cause the name of such person to be removed from the register kept in his office.

(2) The Governor may in like manner annul any such deprivation.

31. (1) Any person convicted of an offence under Disqualifica-
 tion and
 removal from
 register.
 either section twenty-eight or section twenty-nine
 of this Act shall be disqualified under this Act
 from celebrating marriages.

(2)

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(2) The clerk of the court in which the accused is convicted shall forward to the Registrar-General a certificate of the conviction.

(3) The certificate shall not be so forwarded until the expiration of the time limited for the initiation of any proceedings by way of appeal from the conviction.

(4) If any such proceedings are initiated, the certificate shall not be so forwarded until the proceedings are finally disposed of, and if the conviction is quashed or set aside, shall not be so forwarded.

(5) Upon receipt of the certificate the Registrar-General shall, if the person convicted is a person registered in his office as a minister of religion ordinarily officiating as such under this Act, cause the name of the person convicted to be removed from the register, and shall notify the fact of the removal in the Gazette.

Amendment of
Part II of Act
No. 15 of 1899,
s. 9.

4. Part II of the Principal Act is amended—

- (a) (i) by inserting in paragraph (c) of section nine after the words "written consent" the words "of a police or stipendiary magistrate or"; and
 (ii) by inserting in the same paragraph before the word "justice" where it secondly occurs the words "magistrate or";
 (b) by adding at the end of the same section the following proviso:—

Provided that where the custody of the party has been committed to the mother by a court of competent jurisdiction or by agreement, or where the parents of the party are living apart and an order for the maintenance of the mother has been made against the father, the marriage may be celebrated upon the production of the written consent of the mother of the party.