



ANALYSIS

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1973, No. 6

An Act to consolidate and amend the law relating to marriage

(29 May 1973)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Marriage Act 1973.

(2) This Act shall come into force on the first day of April, nineteen hundred and seventy-three.

PART I - PRELIMINARY

2. Interpretation - In this Act, unless the context otherwise requires, -

"Commonwealth country" means a country that is a member of the British Commonwealth of Nations; and includes every territory for whose international relations the Government of that country is responsible;

"Deputy Registrar-General" means the person for the time being holding office as Deputy Registrar-General under the Births and Deaths Registration Act 1973:

"Minister of Justice" means the Minister in charge of the Department of Justice:

"Officiating minister" means a person authorised to act as an officiating minister under this Act:

"Register book" means a Marriage Register Book compiled in accordance with Part VI of this Act:

"Registrar" means a Registrar of Marriages appointed under this Act:

"Registrar-General" means the person for the time being holding office as Registrar-General under the Births and Deaths Registration Act 1973.

3. Application of Act - (1) The provisions of this Act, so far as they relate to capacity to marry, shall apply to the marriage of any person domiciled in the Cook Islands at the time of the marriage, whether the marriage is solemnized in the Cook Islands or elsewhere.

(2) The provisions of this Act, so far as they relate to the formalities of marriage, including the provisions relating to consents to the marriage of minors, shall apply to any marriage solemnized in the Cook Islands whether or not either of the parties to any such marriage is at the time of the marriage domiciled in the Cook Islands.

4. Registrar-General and Deputy Registrar-General - (1) The Registrar-General shall be charged with the general administration of this Act.

(2) The Deputy Registrar-General shall, under the control of the Registrar-General, have all the powers, duties, and functions of the Registrar-General.

(3) During a vacancy in the office of Registrar-General, or in the case of the absence from duty of the Registrar-General, the Deputy Registrar-General shall have all the powers, duties, and functions of the Registrar-General.

5. Appointment of Registrars and Deputy and Acting Registrars - (1) There shall from time to time be appointed such fit persons as may be required to be Registrars of Marriages and Deputy Registrars of Marriages under this Act. One or more Deputy Registrars may be appointed in any case where a Registrar is appointed.

(2) In the case of a vacancy in the office of any Registrar, or in the case of the absence from duty of any Registrar, there may be appointed to act for him a fit person to be Acting Registrar, and any such person while so acting shall have all the powers, duties, and functions of the Registrar.

(3) Every Deputy Registrar shall, under the control of the Registrar or Acting Registrar, have all the powers, duties, and functions of the Registrar.

(4) During a vacancy in the office of the Registrar at any place, or during the absence from duty of the Registrar at any place, and so long as no Acting Registrar has been appointed to act for the Registrar, every Deputy Registrar at that place shall have the powers, duties, and functions of the Registrar.

(5) Any appointment to the office of Registrar, Deputy Registrar, or Acting Registrar shall be made in accordance with the Public Service Act 1969 in the case of persons who are, or after the appointment will be, employed in the Public Service.

6. Fact of deputies acting conclusive evidence of authority to do so - The fact that the Deputy Registrar-General or any Deputy Registrar or Acting Registrar exercises any power, duty, or function under this Act shall be conclusive evidence of his authority to do so, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorising him to do so.

PART II - OFFICIATING MINISTERS

7. List of officiating ministers - (1) The Registrar-General shall in each year prepare a list of officiating ministers (in this Part of this Act referred to as the list) and shall cause the list to be published in the Gazette.

(2) The list shall contain the name of each person entitled under this Act to act as an officiating minister and shall be corrected or added to as the occasion may require. The Registrar-General shall cause each correction or addition to the list to be published in the Gazette.

(3) The Registrar-General shall specify in each list published in the Gazette a date on which the list shall come into force, and on that date all previous lists and all corrections and additions to any previous list shall be deemed to be cancelled and of no effect.

8. Officiating ministers of specified religious bodies - (1) Subject to the provisions of subsections (2) and (3) of this section, there shall be entered in the list the name of any minister of religion which has been sent to the Registrar-General by any of the religious bodies enumerated in the First Schedule to this Act.

(2) The name of any minister of religion which has been sent to the Registrar-General as aforesaid shall be accompanied by a certificate to the effect that the minister is recognised by the religious body as a minister of religion of that body.

(3) The certificate shall be signed by the person or persons within the Cook Islands in whom ecclesiastical authority over the religious body is for the time being vested, or reputed to be vested.

9. Officiating ministers of unspecified religious bodies - (1) Subject to the provisions of this Act, there may be entered in the list the name of any minister of religion which has been sent to the Registrar-General by any religious body not enumerated in the First Schedule to this Act.

(2) The name of any minister of religion which has been sent to the Registrar-General as aforesaid shall be accompanied by a certificate to the effect that the minister is recognised by the religious body as a minister of religion of that body.

(3) The certificate shall be signed by the recognised head in the Cook Islands of the religious body, or by two duly recognised ministers of that body, or by ten adult members thereof.

(4) Where the certificate is signed by ten adult members of the religious body, each signatory to the certificate shall append to his signature his description as being a member of the religious body concerned, and the signatures and descriptions of the members shall be attested by some person other than the minister in respect of whom the certificate is given, and that person shall, by statutory declaration attached to the certificate, verify the signatures as the genuine signatures of the persons whose signatures they purport to be.

10. Other persons entitled to act as officiating ministers - (1) Subject to the provisions of this Act, there may be entered in the list the name of any adult person belonging to any religious body the constitution or tenets of which do not recognise the office of minister of religion.

(2) The name of any such person shall be sent to the Registrar-General by the religious body concerned and shall be accompanied by a certificate to the effect that the person is accepted by the religious body as a person whose name it desires to be entered in the list.

(3) The certificate shall be signed by ten adult members of the religious body, who shall each append to his signature his description as being a member of the body, and the signatures and descriptions of the members of the religious body signing the certificate shall be attested by some person other than the person in respect of whom the certificate is given, and the person attesting the signatures shall, by statutory declaration attached to the certificate, verify the signatures as the genuine signatures of the persons whose signatures they purport to be.

11. Registrar-General to enter names of officiating ministers in list - (1) If the Registrar-General is satisfied that any person whose name has been sent to him for entry in the list pursuant to section 9 or section 10 of this Act is of good character and otherwise qualified to act as an officiating minister, that the body to which the person belongs is a religious body, and that the provisions of this Act in respect of the submission of the name of the person to the Registrar-General have been complied with, the Registrar-General shall enter the name of that person in the list.

(2) If the Registrar-General fails or refuses to enter any name in the list in accordance with this section, he shall, if required to do so by any person who has signed the certificate accompanying the application for the entry of the name in the list, refer the matter to the Minister of Justice, who may direct the Registrar-General to enter the name of the applicant in the list, and the Registrar-General shall thereupon enter the name in the list accordingly.

12. Renewal of list - Where it is desired that any person shall continue to act as an officiating minister, his name shall, in the month of December in each year, be sent to the Registrar-General, and the provisions of this Part of this Act shall apply in any such case as if it were an application for the original entry of the name of the person concerned in the list.

13. Removal of names from list - (1) If the Registrar-General is satisfied as to the suspension or deprecation of any minister of religion or other person whose name appears in the list he shall remove the name of the minister or other person from the list and shall publish in the Gazette a correction to the list omitting therefrom the name of the minister of religion or other person to whom the notice relates.

(2) If the Registrar-General is satisfied that any person whose name appears in the list has died, or has ceased to be a minister of religion or a member of the religious body to which he belonged, the Registrar-General shall remove the name of that person from the list and publish in the Gazette a correction to the list omitting therefrom the name of the minister of religion or other person concerned.

(3) If the Minister of Justice is satisfied that any person whose name appears on the list has wilfully failed or persistently neglected to register the particulars of any marriage or to forward to the Registrar-General any document required to be so forwarded by this Act, the Minister may direct

the Registrar-General to remove the name of that person from the list, and the Registrar-General shall take such action as may be necessary to comply with the direction.

14. Evidence of list or correction to list - (1) No person shall be entitled to act as an officiating minister unless his name appears in the list.

(2) A copy of the Gazette purporting to contain a copy of any list or of any correction or addition to any list published in the Gazette in accordance with this Part of this Act shall be received in any Court or before any person acting judicially as conclusive evidence of the truth of any statement in any copy published as aforesaid.

PART III - RESTRICTIONS OF MARRIAGE

15. Marriage of persons within prohibited degrees of relationship void - (1) Subject to the provisions of this section, a marriage which is forbidden by the provisions of the Second Schedule to this Act shall be void.

(2) Any persons who are not within the degrees of consanguinity but are within the degrees of affinity prohibited by the said Second Schedule may apply to the High Court for its consent to their marriage, and the Court, if it is satisfied that neither party to the intended marriage has by his or her conduct caused or contributed to the cause of the termination of any previous marriage of the other party, may make an order dispensing with the prohibition contained in the Second Schedule to this Act so far as it relates to the parties to the application and, if such an order is made, that prohibition shall cease to apply to the parties.

(3) The Registrar of the Court where any order under this section is made shall send a copy in duplicate of the order to the Registrar-General.

(4) No marriage not forbidden by the provisions of the Second Schedule to this Act shall be void only on the ground of consanguinity or affinity.

16. Validation of certain marriages already solemnised - All marriages solemnised before the commencement of this Act that by virtue of section 15 of this Act would have been valid and lawful if this Act had been in force when they were solemnised shall be deemed to have been and to be valid and lawful, and the issue born of any such marriage (whether born before or after the commencement of this Act) shall be deemed to have been born in lawful wedlock:

Provided that where either of the parties to any such marriage has thereafter during the lifetime of the other party to the marriage and before the commencement of this Act lawfully married any other person, the first marriage shall be deemed to have been dissolved immediately before the solemnisation of the second marriage:

Provided also that this section shall not affect any estate, right, or interest in any real or personal property to which any person has become absolutely entitled before the commencement of this Act, or affect any proceedings commenced in any Court before the commencement of this Act, or any decree, order, or judgment made or given (whether before or after the commencement of this Act) in any such proceedings.

17. Marriage of persons under sixteen years of age - (1) A marriage licence shall not be issued by any Registrar and no marriage shall be solemnised by any Registrar or officiating minister if either of the persons intending marriage is under the age of sixteen years on the date of the notice of the intended marriage given under section 23 of this Act.

(2) No marriage shall be void by reason only of an infringement of the provisions of this section.

18. Consent to marriage of minors - (1) If either of the parties to an intended marriage is a minor and has not previously been married, the Registrar shall not issue a licence authorising the marriage or solemnise the marriage unless it has been consented to in accordance with this section.

(2) Subject to the provisions of this section, consents to the marriage of a minor shall be obtained in accordance with the following provisions:-

- (a) If both the minor's parents are alive and living together, consents shall be obtained from both parents:
- (b) If the minor's parents are living apart and he is living with one parent, consent shall be obtained from the parent with whom he is living:
- (c) If the parents are living apart and the minor is not living with either, consent shall be obtained:
 - (i) From both parents in any case where they are, or have been, married to each other, unless the consent of one parent is dispensed with by a Judge of the High Court;
 - (ii) From the mother in any case where the parents have never been married:
- (d) If one of the parents is dead and the parents had at any time been married to each other, consent shall be obtained from the surviving parent and any other person who is the legal guardian of the minor:
- (e) If both parents are dead and they had at any time been married to each other, consent shall be obtained from any person who is the legal guardian of the minor:
- (f) If the minor's parents had never been married to each other and one or both of them is dead, consent shall be obtained from the mother if she is alive and from any person who is the legal guardian of the minor if she is dead.

(3) Where a parent whose consent is required or is sufficient is deprived of the guardianship of a minor, the consent of the legal guardian shall be required or be sufficient, as the case may be, in place of the consent of that parent.

(4) Consent shall not be required from any person who cannot be found or is, because of mental incapacity, unable to give consent and, unless the minor requests the consent, consent shall not be required from any person who is not resident in the Cook Islands.

(5) Where there is no person whose consent to the marriage of a minor is required under the foregoing provisions of this section, consent to the marriage shall be obtained either from a relative who has been acting in the place of a parent or from a Judge of the High Court.

(6) No marriage shall be void by reason only of the absence of the consent of any person whose consent is required under this section.

19. Application to judge where consent refused - (1) Where any person whose consent is required to a marriage refuses to give his consent, a Judge of the High Court may, on application in that behalf, consent to the marriage and that consent shall have the same effect as if it had been given by the person whose consent has been refused.

(2) Where an application is made to a Judge for consent to a marriage, notice of the application shall be served on every person whose consent to the marriage is required under section 18 of this Act:

Provided that the Judge may in his discretion dispense with the serving of notice on any such person.

20. General provisions relating to consents - (1) Every consent under section 18 of this Act shall be in writing witnessed by some person who, if resident in the Cook Islands shall add his occupation and address, and the consent shall be delivered to the Registrar to whom notice of the intended marriage is given.

(2) Any consent given under section 18 of this Act may, by notice in writing signed by the person giving his consent, be withdrawn at any time before the Registrar issues the marriage licence or solemnises the marriage, as the case may be.

21. Marriages without licence or officiating minister void - If any persons knowingly and wilfully marry without a marriage licence where a marriage licence is required by this Act, or in the absence of an officiating minister or Registrar where the presence of an officiating minister or Registrar is required by this Act, the marriage shall be void.

22. Marriages not to be void because of defects in procedure - (1) Except as provided in section 15 or in section 21 of this Act, no marriage shall be deemed to be void by reason of any error or defect in the notice, declaration, or licence required before solemnisation, or in the registration of the marriage when solemnised where the identity of the parties is not questioned, or on account of any other infringement of the provisions of this Act.

(2) Nothing in this section shall exempt any officiating minister, Registrar, or other person who does anything contrary to the provisions of this Act from any penalty for any offence under this Act committed by any such person.

PART IV

FORMALITIES PRELIMINARY TO MARRIAGE

23. Notice of marriage - (1) Where two persons intend to marry in the Cook Islands, one of them shall give notice in the prescribed form to a Registrar.

(2) The person giving notice shall appear personally before the Registrar and shall make a statutory declaration in the prescribed form that the several particulars set forth in the notice are true, that he believes that the marriage is not prohibited by section 15 of this Act, and that there is no other lawful impediment to the intended marriage.

24. Issue of marriage licence - (1) If the marriage is to be solemnised by an officiating minister, the Registrar shall, upon compliance with the requirements of section 23 of this Act, and subject to the provisions of this Act, not earlier than the third day after notice of the intended marriage was given, issue in the prescribed form a marriage licence authorising the marriage of the persons named in the licence at the place described therein:

Provided that the Registrar, if he is satisfied that the marriage is not prohibited by this Act, that the requirements of this Act have been complied with, and that inconvenience would otherwise be caused to the persons intending marriage, may issue the licence before that day.

(2) The Registrar who has issued a marriage licence may substitute any other place for the place of marriage described in the licence and endorse the notice of marriage accordingly.

25. Caveats may be lodged - (1) Any person may lodge with any Registrar a caveat against the marriage of any person named in the caveat on the ground that the marriage is one in respect of which a licence should not be issued under this Act.

(2) Every caveat shall be in writing signed by or on behalf of the caveator, and shall state his full name and residential address and the particular grounds of objection on which the caveat is founded.

(3) Notice of any caveat may be given to any Registrar other than the Registrar with whom it was lodged. The notice shall be in writing signed by or on behalf of the caveator, and shall state his full name and residential address, the date and place of lodgment of the caveat, and the grounds of objection on which the caveat is founded.

(4) Until the caveat has been withdrawn by the caveator or has been discharged as provided by section 26 of this Act, no licence in respect of the marriage of the person to whom the caveat relates shall be issued by any Registrar with whom the caveat has been lodged or to whom notice of the caveat has been given in accordance with this section, and no such Registrar shall solemnise the marriage.

26. Discharge of caveat - (1) On receiving notice under section 23 of this Act of an intended marriage against which he is aware that a caveat has been lodged, the Registrar shall submit the caveat to a Judge of the High Court who shall forthwith inquire into the grounds of objection stated in the caveat, and, if he is of the opinion that those grounds should not prevent the solemnisation of the marriage, he shall discharge the caveat.

(2) A caveat shall be deemed to be discharged after the expiration of one year from the date on which it was lodged unless within that time a notice of the intended marriage to which the caveat relates has been given.

(3) Where a Judge of the High Court has refused to discharge a caveat any person may make an application to a Judge for the discharge of the caveat and the Judge of the High Court, if he is of the opinion that there is no longer any reason why the intended marriage should not be solemnised, shall discharge the caveat.

27. Vexatious caveat - Any person who has lodged a caveat shall, if the Court considers the grounds on which the caveat was lodged to be vexatious and unreasonable, be liable for damages.

28. Registrar to issue licence unless satisfied marriage unlawful - A Registrar shall issue a marriage licence or solemnise a marriage, as the case may be, unless he has reasonable cause to believe that the marriage is prohibited by this Act or that any of the requirements of this Act have not been complied with.

29. Licence authorises but not obliges officiating minister to solemnise marriage - A marriage licence shall authorise but not oblige any officiating minister to solemnise the marriage to which it relates.

PART V - SOLEMNISATION OF MARRIAGE

30. When marriage may be solemnised - (1) A marriage shall not be solemnised by an officiating minister until the marriage licence issued in respect of the marriage has been delivered to him.

(2) A marriage shall not be solemnised after the expiration of three months from the date of the licence issued in respect of the marriage.

(3) A marriage shall not be solemnised by a Registrar before the third day after notice of the intended marriage has been given to him:

Provided that the Registrar, if he is satisfied that the marriage is not prohibited by this Act, that the requirements of this Act have been complied with, and that inconvenience would otherwise be caused to the persons intending marriage, may solemnise the marriage before that day.

(4) A marriage shall not be solemnised by a Registrar after the expiration of three months from the date when notice of the intended marriage was given to him, or, where a caveat has been lodged, after the expiration of three months from the date when the caveat was withdrawn or discharged.

31. Place and form of marriage before officiating minister - (1) Every marriage solemnised by an officiating minister shall be solemnised at the place described in the marriage licence issued in respect of the marriage.

(2) Every such marriage shall take place between the persons named in the licence according to such form and ceremony as they may think fit to adopt, and shall be solemnised with open doors in the presence of an officiating minister and two or more witnesses, at any time between the hours of six in the morning and eight in the evening.

32. Marriages before Registrar - (1) The marriage of any persons may, after compliance with the provisions of this Act, be solemnised, with open doors, at the office of and before the Registrar in the presence of two or more witnesses, at any time while the office of the Registrar is ordinarily open for the transaction of public business under this Act.

(2) Where any marriage is solemnised before a Registrar, each party to the marriage, in the presence of the Registrar and two witnesses, shall declare:

I solemnly declare that I do not know of any lawful impediment to this marriage between me A.B. and C.D.

and 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., take you, C.D., to be my lawful wedded wife(or husband).

PART VI - REGISTRATION OF MARRIAGES

33. Marriages registers - (1) Every officiating minister and every Registrar shall keep for the purpose of recording marriages a book, supplied for the purpose by the Registrar-General, called "The Marriage Register Book".

(2) Any person having lawful custody of a register book shall keep the book safely, and any such person who negligently loses the book, or wilfully or negligently destroys or defaces any entry in the book, or wilfully or negligently allows any entry in the book to be destroyed or defaced while the book is in his custody, commits an offence and shall be liable on conviction to a fine not exceeding one hundred dollars.

34. Particulars of marriage to be entered in register book - (1) Every officiating minister and every Registrar who solemnises a marriage shall forthwith register the particulars of the marriage in the register book in the prescribed form.

(2) A copy of the particulars registered as aforesaid shall be entered on a loose leaf, and the officiating minister or Registrar shall, within ten days after the date of the solemnisation of the marriage, forward the copy to the Registrar-General.

(3) Every entry in the register book and every copy of any such entry made in accordance with this section shall be signed by the parties to the marriage to which it relates, by the officiating minister or Registrar who solemnises the marriage, and by two witnesses to the marriage.

(4) If an officiating minister is called upon to solemnise a marriage and at the time no register book is available, he shall enter the particulars of the marriage on a blank form instead of in the register book and shall, as soon as practicable, affix the form in the register book and that form shall be deemed part of the register book.

(5) Where any copy of an entry made in accordance with this section is lost or mislaid the Registrar or, as the case may be, the officiating minister shall, at the request of the Registrar-General, make and transmit to the Registrar-General a true copy, certified under the hand of the Registrar or officiating minister, of the entry the copy of which has been lost or mislaid, and the copy transmitted as aforesaid shall be substituted by the Registrar-General for the copy lost or mislaid.

35. Penalty for failing to register marriage - Any officiating minister or Registrar who solemnises any marriage and who neglects to register the particulars of the marriage or to forward to the Registrar-General any document required to be so forwarded by this Part of this Act commits an offence and shall be liable on conviction to a fine not exceeding fifty dollars.

36. Officiating minister to comply with directions of the Registrar-General with respect to registration - (1) Where any officiating minister has neglected to register the particulars of any marriage solemnised by him or to forward to the Registrar-General any document required to be so forwarded by this Part of this Act, the Registrar-General may direct the officiating minister to register the particulars or to forward the document.

(2) Any officiating minister who fails to comply with a direction of the Registrar-General under subsection (1) of this section commits an offence and shall be liable on conviction to a fine not exceeding fifty dollars.

37. Registrar-General to keep register - (1) The Registrar-General shall keep a register containing particulars of all marriages notified to him in accordance with this Act.

(2) Where particulars of any marriage required to be registered under this Act have not been so registered, or for any reason whatever the Registrar-General has not a copy of any entry under section 34 of this Act relating to a marriage, he may, on receipt of a statutory declaration or such other evidence as he deems sufficient as to the several particulars required to be registered, insert particulars of the marriage in the register kept under this section.

PART VII - GENERAL

38. Correction of errors in register books or records - (1) Any clerical error, or any error of fact or substance, or any omission in any register book or record may be corrected in the manner authorised by the Registrar-General.

(2) For the purpose of this section the Registrar-General may require to be produced a statutory declaration and such other evidence as he may deem necessary.

(3) Any person having custody of a register book shall, upon direction by the Registrar-General, make corrections of any errors or omissions in the register book.

(4) Except as provided by this section, no alteration shall be made in any entry in any register book or record after the entry has been completed.

39. Search of records of Registrar - Every Registrar who has in his custody any notice of marriage or any register book shall, upon the request of any person, cause a search of any such notice or register book to be made, and shall permit that person to inspect any such notice or entry in the register book and to have a copy of any such entry certified under the hand of the Registrar.

40. Search of records of Registrar-General - (1) The Registrar-General shall cause indexes of all records of marriages forwarded to him to be made and kept in his office, and shall, upon the request of any person, cause a search of any index to be made, and shall permit any such person to inspect any copy of a marriage entry.

(2) The Registrar-General shall give a certified copy under his hand or seal to any person of any record of a marriage the particulars of which have been registered by him.

41. Form of certified copy - (1) Every certified copy of an entry in a register under this Act shall be in the prescribed form and any such form shall include only such particulars, and shall be used in such circumstances, as may be prescribed.

(2) Every such certified copy made in a prescribed form shall, if otherwise correct, be deemed to be a true copy of the original entry in the register, notwithstanding that the prescribed particulars do not include all the particulars in the original entry.

42. Certified copies to be evidence - (1) A certified copy of an entry in a register book purporting to be signed by the officiating minister who solemnised the marriage or by the Registrar for the time being having the lawful custody of the register book shall be received in any Court or before any person acting judicially as prima facie evidence of the solemnisation of the marriage to which it relates.

(2) A certified copy of any entry in any register of marriages kept by the Registrar-General shall, if it purports to be signed by the Registrar-General or stamped with his seal, be received in any Court or before any person acting judicially as prima facie evidence of the solemnisation of the marriage to which it relates.

43. Officers may take statutory declarations - Any person for the time being holding the office of Registrar-General or Deputy Registrar-General, or the office of Registrar or Deputy Registrar or Acting Registrar shall, in respect of any statutory declaration required for the purpose of this Act, be deemed a person duly authorised to take and receive a statutory declaration under section 653 of the Cook Islands Act 1915.

44. Records to be made of dissolution of marriages - Upon the making of a decree absolute of dissolution of marriage or a decree of presumption of death and of dissolution of marriage or a decree of nullity of marriage under the Cook Islands Act 1915 in respect of any marriage solemnised in the Cook Islands, the Registrar of the High Court shall forthwith send to the Registrar-General a certificate in duplicate in the prescribed form of the decree.

45. Convictions for bigamy to be recorded - (1) Upon the conviction of any person for bigamy, the Registrar of the Court in which the conviction is entered shall send to the Registrar-General a certificate in duplicate of the conviction.

(2) The certificate shall specify the names of the parties to the form of marriage in respect of which the offence was committed, the date and place of the offence, and the date of the conviction.

46. Records of dissolution of marriage or bigamy to be made in record book - (1) On receipt of a certificate under section 44 or section 45 of this Act, the Registrar-General shall cause a memorandum of the particulars disclosed therein to be entered on his record of the marriage entry.

(2) The Registrar-General shall send the duplicate certificate to the officiating minister or Registrar having lawful custody of the register book in which the marriage is registered, and the officiating minister or Registrar shall enter the particulars disclosed in the certificate on the entry in the register book.

(3) Every certified copy of an entry in a register book issued after any memorandum has been entered as provided by this section shall contain the particulars disclosed in the memorandum.

47. Recording of changes of name in marriage record book - (1) Where any married person, whose marriage has been solemnised in the Cook Islands, has changed his name by deed poll and the change has been registered in accordance with section 18 of the Births and Deaths Registration Act 1973, that person (or, if that person has died, then the other party to the marriage) may make an application in writing to the Registrar-General requesting him to endorse a memorandum of the change of name on his record of the marriage entry.

(2) On receipt of the application together with the prescribed fee, the Registrar-General shall forthwith abstract particulars of the change of name from the deed poll and shall endorse and sign a memorandum of those particulars on his record of marriage of the person named in the deed poll, but shall not erase, cross out, or obliterate the particulars of marriage existing in his records at the time of the application.

(3) An application under subsection (1) of this section may be made at the time of application for registration of a deed poll under section 18 of the Births and Deaths Registration Act 1973 or at any time after registration under that section.

(4) Every certified copy of an entry in a register book issued by the Registrar-General under subsection (2) of section 45 of this Act after any memorandum has been endorsed as provided by subsection (2) of this section shall have a copy of the memorandum endorsed thereon.

48. Offence to deny or impugn validity of lawful marriage - (1) Every person commits an offence against this Act, and shall be liable on conviction to a fine not exceeding two hundred dollars, who -

(a) Alleges, expressly or by implication, that any persons lawfully married are not truly and sufficiently married; or

(b) Alleges, expressly or by implication, that the issue of any lawful marriage is illegitimate or born out of true wedlock.

(2) For the purposes of this section the term "alleges" 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 this Act was in use by the religious body to which that 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 this Act by any religious body.

49. Offence to alter register book without authority - Any person who without the authority of the Registrar-General makes any alteration in a register book, or any person having lawful custody of a register book who permits any such alteration, commits an offence and shall be liable on conviction to a fine not exceeding one hundred dollars.

50. Offence to solemnise marriage contrary to provisions of this Act - Every Registrar who knowingly and wilfully issues any marriage licence or solemnises any marriage contrary to the provisions of this Act, or where there is any other lawful impediment to the marriage, and every officiating minister who knowingly and wilfully solemnises any marriage contrary to the provisions of this Act, or where there is any other lawful impediment to the marriage, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years, or to a fine not exceeding six hundred dollars.

51. Offence to solemnise marriage falsely pretending to be officiating minister - Every person who falsely pretends to be an officiating minister and solemnises any marriage, knowingly and wilfully so doing, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years.

52. Offences in connection with false statements and improper solemnisation of marriages - Every person commits an offence and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine not exceeding four hundred dollars, or to both, who knowingly and wilfully -

- (a) Makes or causes to be made any false declaration for the purposes of this Act; or
- (b) Makes or causes to be made, for the purpose of being inserted in any register book, a false statement of any of the particulars required to be known and registered under the provisions of this Act; or
- (c) Notifies any Registrar of the lodgment of a caveat under section 25 of this Act if in fact no such caveat has been lodged.

53. Offences generally - (1) Every person who fails to comply with or does any act in contravention of any of the provisions of this Act commits an offence.

(2) Every person who commits an offence against this Act for which no specific penalty is elsewhere provided shall be liable on conviction to a fine not exceeding twenty dollars.

54. Limitation on prosecutions - No prosecution under this Act shall be commenced after the expiration of three years from the date when the offence was committed.

55. Legitimation per subsequens matrimonium - A child born out of wedlock, whether born before or after the commencement of this Act, shall be legitimated by the subsequent intermarriage after the commencement of this Act of the parents of that child, provided that at the time of the birth of the child there existed no bar to the intermarriage of the parents other than the age of one or both of those parents.

56. Regulations - (1) The High Commissioner from time to time, by Order in Executive Council, may make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations under this Act shall be laid before the Legislative Assembly within twenty-eight days of the date of the making thereof if the Legislative Assembly is then in session, and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

57. Regulations may prescribe fees - (1) Regulations under section 56 of this Act may prescribe fees for the doing of any act under this Act.

(2) Where the Registrar-General or any Registrar is empowered by this Act to do any act for which a fee is payable, he may refuse to do the act until the fee is paid.

(3) Notwithstanding the provisions of any regulations under this Act, the Registrar-General may dispense with the payment of any fee payable under this Act.

58. Disposition of fines and fees - All fines recovered and all fees received under this Act shall be paid into the Cook Islands Government Account.

59. Repeals and savings - (1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

SCHEDULES

FIRST SCHEDULE

Section 9 (1)

RELIGIOUS BODIES

Cook Islands Christian Church
The Roman Catholic Church
Seventh Day Adventist Church
The Church of Jesus Christ of Latter
Day Saints

SECOND SCHEDULE

Section 15 (1)

FORBIDDEN MARRIAGES

1. A man may not marry his -

- (1) Grandmother:
- (2) Grandfather's wife:
- (3) Wife's grandmother:
- (4) Father's sister:
- (5) Mother's sister:
- (6) Mother:
- (7) Stepmother:
- (8) Wife's mother:
- (9) Daughter:
- (10) Wife's daughter:
- (11) Son's wife:
- (12) Sister:
- (13) Son's daughter:
- (14) Daughter's daughter:
- (15) Son's son's wife:
- (16) Daughter's son's wife:
- (17) Wife's daughter's daughter:
- (18) Wife's son's daughter:
- (19) Brother's daughter:
- (20) Sister's daughter.

2. A woman may not marry her -

- (1) Grandfather:
- (2) Grandmother's husband:
- (3) Husband's grandfather:

SECOND SCHEDULE - continued

- (4) Father's brother:
- (5) Mother's brother:
- (6) Father:
- (7) Stepfather:
- (8) Husband's father:
- (9) Son:
- (10) Husband's son:
- (11) Daughter's husband:
- (12) Brother:
- (13) Son's son:
- (14) Daughter's son:
- (15) Son's daughter's husband:
- (16) Daughter's daughter's husband:
- (17) Husband's son's son:
- (18) Husband's daughter's son:
- (19) Brother's son:
- (20) Sister's son.

3. The foregoing provisions of this Schedule with respect to any relationship shall apply whether the relationship is by the whole blood or by the half blood.

4. In this Schedule, unless the context otherwise requires, the term "wife" means a former wife, whether she is alive or deceased, and whether her marriage was terminated by death or divorce or otherwise; and the term "husband" has a corresponding meaning.

THIRD SCHEDULE

Section 58 (1)

ENACTMENTS REPEALED

Part XVIII Cook Islands Act 1915 (sections 508 to 523 both inclusive)

Regulations under Part XVIII of the Cook Islands Act 1915, relating to Marriages dated 19th June 1916 and published in the New Zealand Gazette No.72, 29th June 1916.

This Act is administered in the Justice Department.