

MARRIAGE.

12° GEO. VI., No. XXIII.

No. 23 of 1948.

AN ACT to amend the Marriage Act, 1894-1932.

[Assented to 18th November, 1948.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Marriage Act Amendment Act, 1948*, and shall be read as one with the Marriage Act, 1894-1932 (Act 58 Victoriae No. 11, as amended by Acts 62 Victoriae No. 23; 1 and 2 Edward VII., No. 14; No. 7 of 1907; No. 48 of 1915, and No. 46 of 1932), hereinafter called the principal Act, and shall come into operation and take effect on and from a date to be proclaimed.

Short title
and com-
mencement.

2. The principal Act, as amended by this Act, may be cited as the Marriage Act, 1894-1948.

Citation of
principal Act
as amended.

3. Section five of the principal Act is amended by adding the word "or" after the word "celebrated" at the end of subsection (2) and by adding a new subsection as follows:—

Amendment of
s. 5.

(3) In respect to any particular marriage, any person whose name, designation, religious denomination and usual place of residence have been registered according to law in the office of the Registrar General as authorised to celebrate that particular marriage.

Repeal of
s. 9 and sub-
stitution of
new section.

Consent in
case of
minority.

4. Section nine of the principal Act is repealed and a new section is substituted therefor as follows:—

9. (1) If either party to any intended marriage, not having been previously married, is under the age of twenty-one years, such marriage shall not be celebrated unless and until there is produced to the person about to celebrate the same the consent according to one of the forms contained in the Third Schedule to this Act, of the person or persons mentioned in the Eleventh Schedule to this Act: Provided that if there is no such person within Western Australia or if any such person is incapable of duly consenting by reason of absence or inaccessibility, or habitual intoxication, mental incapacity or other substantial cause, then the consent according to one of the forms in the Third Schedule of some justice of the peace may be obtained and the consent so obtained shall have the same effect as if it had been given by a person whose consent is required where there is no such person within Western Australia, or as if it had been given by the person who is incapable of consenting, as the case may be.

(2) If any person whose consent is required refuses his consent, the Court may, on application being made, consent to the marriage, and the consent of the Court so given shall have the same effect as if it had been given by the person whose consent is so refused:

Provided that the Court shall not entertain any such application where the consent to the marriage has been refused by both parents when such parents are living together.

(3) Before giving such consent such justice of the peace or the Court (as the case may be) shall make inquiry on oath or affirmation as to the facts and circumstances of the case and may, if it thinks fit, make such inquiry *in camera*.

(4) For the purposes of this section "the Court" means the Supreme Court or a Judge thereof or a court of summary jurisdiction constituted by a Stipendiary Magistrate or a Police Magistrate sitting alone. The jurisdiction of the Court shall be exercised in Chambers.

5. Section eleven of the principal Act is repealed and a new section is substituted therefor as follows:—

Repeal of s. 11 and substitution of new section.

11. A district registrar or officiating minister shall prepare in triplicate a certificate according to the form in the Eleventh Schedule to the Registration of Births, Deaths and Marriages Act, 1894, of every marriage celebrated or contracted before him and every such certificate shall be signed by the district registrar or minister celebrating the marriage and by the parties contracting such marriage and by the requisite number of witnesses; and such district registrar or officiating minister shall, immediately after the marriage, deliver one of such certificates to one of the parties to the marriage and shall keep the second of such certificates as a record of the marriage. In the case of a marriage celebrated by a district registrar the remaining or third certificate together with the second certificate hereinbefore referred to shall be registered by him immediately after the marriage, and in the case of a marriage celebrated by a minister the remaining third certificate shall be transmitted by him, within fourteen days to the district registrar of the district where the marriage was celebrated, who shall enter in the Marriage Register Book kept by him a copy of such marriage certificate and duly register the copy so entered.

Certificates to be in triplicate.

6. Section thirteen of the principal Act is amended by deleting subsection (1).

Amendment of s. 13.

7. The principal Act is amended by adding after section thirty-seven A a section as follows:—

New section 37B.

37B. The Governor may from time to time amend the forms contained in the Schedules to this Act numbered two to ten inclusive.

Power to amend forms.

8. The Third Schedule to the principal Act is amended by inserting after the words "Signature of Father, Mother, or Guardian" the following words and spaces:—

Amendment of 3rd Schedule.

"Signature of Witness.....
Address of Witness....."

9. The principal Act is amended by repealing the Seventh Schedule.

Repeal of the 7th Schedule.

New Eleventh
Schedule
added.

10. The principal Act is amended by adding after the Tenth Schedule a new Schedule as follows:—

Sect. 9.

ELEVENTH SCHEDULE.**CONSENTS REQUIRED TO THE MARRIAGE OF AN INFANT.****I.—Where the Infant is Legitimate.**

<i>Circumstances.</i>	<i>Person or Persons whose Consent is Required.</i>
1.—Where both parents are living— (a) If both parents living together. (b) If parents are divorced or separated by order of any Court or by agreement. (c) If both parents deprived of custody of infant by order of any Court.	Both parents. The parent to whom the custody of the infant is committed by order of any Court or by the agreement; or if the custody of the infant is so committed to one parent during part of the year and to the other parent during the rest of the year, both parents. The person to whose custody the infant is committed by order of the Court.
2.—Where one parent is dead— (a) If there is no other guardian. (b) If a guardian has been appointed by the deceased parent or by any Court.	The surviving parent. The surviving parent and the guardian acting jointly, or the surviving parent or the guardian if the parent or guardian is the sole guardian of the infant.
3.—Where both parents are dead.	The guardian or guardians appointed by the deceased parents or by any Court.

II.—Where the Infant is Illegitimate.

<i>Circumstances.</i>	<i>Person whose Consent is Required.</i>
1.—If the Mother of the infant is alive.	The Mother, or if she has by order of any Court been deprived of the custody of the infant, the person to whom the custody of the infant has been committed by order of the Court.
2. If the Mother of the infant is dead.	The guardian appointed by the Mother or by any Court.