

Western Australia.

MARRIAGE ACT, 1894-1948.

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WESTERN AUSTRALIA.

MARRIAGE

58 Vict., No. 11.

[As amended by 62 Vict. No. 23*; 1 and 2 Edw. VII., No. 14†; No. 7 of 1907‡; No. 48 of 1915§; No. 46 of 1932||; and No. 23 of 1948¶ and reprinted pursuant to the Amendments Incorporation Act, 1938].

AN ACT to consolidate and amend the Law relating to the Celebration of Marriage.

[Assented to 1st November, 1894.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1.** This Act is divided into parts, as follows:—

PART I.—PRELIMINARY, ss. 2-4.

PART II.—PERSONS AUTHORISED TO CELEBRATE MARRIAGES, AND TIME THEREOF, ss. 5 AND 6.

PART III.—CELEBRATION OF MARRIAGE, ss. 7-20A.

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Division of Act,
58 Vict.,
No. 11, s. 1.

PART I.—PRELIMINARY.

2.†† This Act may be cited for all purposes as the *Marriage Act, 1894-1948*, and shall come into operation and take effect on and from the first day of January, one thousand eight hundred and ninety-five.

Short title and commencement.
58 Vict.
No. 11, s. 2,
amended by
No. 23 of
1948, s. 2.

* Assented to 28th October, 1898.

† Repealed by No. 28 of 1913, s. 2.

‡ Came into operation 1st January, 1908 (section 2). By section 3, sections 2 and 3 of 62 Vict., No. 23, were repealed.

§ Assented to 19th October, 1915.

|| Assented to 30th December, 1932.

¶ Came into operation 1st January, 1949 (see Government Gazette dated 24/12/48).

** This section was numbered in error as section 2 in the Marriage Act, 1894-1932, as reprinted and published in the Sessional Volume of Statutes for the year 1934.

†† This section was numbered in error as section 1 in the Marriage Act, 1894-1932, as reprinted and published in the Sessional Volume of Statutes for the year 1934.

Repeal of
Acts.
First
Schedule.
58 Vict.
No. 11, s. 3.

3. (1) The Acts specified in the First schedule to this Act are hereby repealed.

Existing
marriages.

(2) Such repeal shall in nowise affect the validity of any marriage celebrated before the coming into operation of this Act, but every such marriage shall from the time of the celebration of the same remain and continue as legal and as valid as though this Act had never been passed.

Saving of
things
duly done;
proceedings
and
offences
under
repealed
Acts.

(3) Whenever, before the coming into operation of this Act, any offence against the Acts hereby repealed has been wholly or partly committed, or any penalty thereunder has been incurred, or any act or thing has been done under the authority thereof, or where in respect of any matter or thing done prior to the coming into operation of this Act any right, liability, or privilege accrues or has accrued, or any action, prosecution, or other proceeding has been commenced, every such offence shall be dealt with and punished and every such penalty shall be recovered, and every such act or thing shall remain valid and have effect, and every such right, liability, or privilege shall continue and be in force, and every such action, prosecution, or other proceeding shall be prosecuted, continued, or defended in the same manner as if this Act had never been passed.

Interpre-
tation.
58 Vict.
No. 11, s. 4,
amended by
No. 7 of
1907, s. 4.

4. In this Act, unless the context otherwise indicates, the following terms shall have the meanings set against them respectively:—

“Church” shall include a cathedral, chapel, or other building or place in which religious services are regularly held.

“District” shall mean a district established for the registration of births, deaths, and marriages under the law for the time being regulating such registration.

“District Registrar” shall mean the officer appointed to register births, deaths, and marriages within a district, but shall not include any assistant district registrar.

“Minister” shall mean any minister of religion or other person authorised to celebrate marriages under this Act.

“Registrar General” shall mean the Registrar General of births, deaths, and marriages appointed under the law for the time being regulating the registration of births, deaths, and marriages within Western Australia.

PART II.—PERSONS AUTHORISED TO CELEBRATE MARRIAGES, AND TIME THEREOF.

5. Subject to the provisions of this Act, the following persons, and none other, may celebrate marriages:—

Persons who may celebrate marriages. 58 Vict. No. 11, s. 5, amended by No. 23 of 1948, s. 3.

- (1) A minister of religion, ordinarily officiating as such, whose name, designation, religious denomination, and usual place of residence have been and continue to be duly registered according to law in the office of the Registrar General as authorised to celebrate marriages, or
- (2) the district registrar of the district wherein the marriage is celebrated, or
- (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.

Ss. (3) added by No. 23 of 1948, s. 3.

6.* No marriage shall be celebrated before eight o'clock in the morning or after eight o'clock in the evening: Provided that no district registrar shall be compellable to celebrate a marriage after four o'clock in the afternoon, or at all on any Sunday or Bank Holiday.

Time of celebration of marriage. 58 Vict. No. 11, s. 6, amended by No. 7 of 1907, s. 5.

PART III.—CELEBRATION OF MARRIAGE.

General Provisions as to Marriage.

7. No marriage shall be celebrated unless and until a declaration upon oath or solemn affirmation has been made by the parties to such intended

Declaration by parties to marriage. 58 Vict. No. 11, s. 7, amended by No. 7 of 1907, s. 6.

* By section 15 of the Marriage Act Amendment Act, 1907 (No. 7 of 1907), it is enacted that the provisions of this section shall not apply or extend to any marriage between parties both of whom are Jews.

Second
Schedule.

marriage, in the respective forms set forth in the Second Schedule to this Act, before a minister or district registrar, who are hereby authorised to administer such oaths and to take and receive such declarations and solemn affirmations; and every such declaration or solemn affirmation shall be endorsed upon the back of the register form of such marriage required by the law regulating the registration of marriages to be transmitted to the Registrar General.

Witnesses to
marriage.
58 Vict.
No. 11, s. 8,
amended by
No. 7 of
1907, s. 7.

8. No marriage shall be celebrated unless two or more witnesses, of the full age of sixteen years and upwards, are present.

Consent in
case of
minority.
58 Vict.
No. 11, s. 9,
repealed
and new
section
substituted
by No. 23 of
1948, s. 4.

Third
Schedule.
Eleventh
Schedule.

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.

Third
Schedule.

(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.

10. Whenever any marriage is celebrated upon the production of any such consent as aforesaid, a statement of the fact of such consent, in the form contained in the Fourth Schedule to this Act shall be endorsed on each register form of such marriage required to be made by the law regulating the registration of marriages, and shall be signed by the minister or district registrar celebrating such marriage.

Consent to be endorsed on Certificate of Marriage. 58 Vict. 11, s. 10. Fourth Schedule.

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

Certificates to be in triplicate. 58 Vict. No. 11, s. 11 repealed and new section substituted by No. 23 of 1948, s. 5. Eleventh Schedule.

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.

Additional Provisions—Marriages by Ministers.

12.* Except by special license hereinafter mentioned, no minister shall celebrate any marriage unless and until—

- (1) the banns of such marriage have, within the three months next preceding the date of such marriage, been duly published on three Sundays in a church within the district wherein one of the parties to such marriage has resided for not less than seven days next preceding the first publication thereof, and the certificate in the prescribed form of such banns has been produced before such marriage to the celebrating minister; or
- (2) a notice, in writing, of the intention to celebrate such marriage, in the form contained in the Fifth Schedule, has, within the three months next preceding the date of such marriage, been and continued to remain for fourteen days affixed to the outside of the outer door of a church within the district wherein one of the parties to such marriage has resided for not less than seven days next preceding the affixing of such notice, and the certificate in the prescribed form has been produced before such marriage to the celebrating minister; or
- (3) the parties to such marriage have, within three months next preceding such marriage, given notice, in the form contained in the Sixth Schedule, to the district registrar of the district wherein such parties have respectively resided for not less than seven days next preceding the giving of such notice, and the respective certificates of the giving of such notice are produced to such minister before such marriage:

Minister may celebrate marriage after banns; or

58 Vict. No. 11, s. 12, repealed and new section substituted by No. 7 of 1907, s. 8.

Notice posted on door of church, etc.; or

Fifth Schedule.

Notice to district registrar.

Sixth Schedule.

* By section 15 of the Marriage Act Amendment Act, 1907 (No. 7 of 1907), it is enacted that the provisions of this section shall not apply or extend to any marriage between parties both of whom are Jews.

Provided always, that if such parties have resided in the same district for not less than seven days as aforesaid, or if one of such parties has not resided in Western Australia for seven days immediately preceding the giving of such notice, then notice as aforesaid, at the instance of one of such parties, shall be deemed to be notice on behalf of each of such parties, and the production of the certificate of such notice shall be sufficient.

Additional Provisions—Marriages by District Registrars.

13. No district registrar shall celebrate any marriage unless and until—

- (1) [Subsection (1) deleted by No. 23 of 1948, s. 6.]
- (2) such parties have, within the three months next preceding such marriage, given notice, in the form contained in the Sixth Schedule to this Act, to the district registrar of the district wherein such parties have respectively dwelt, for not less than seven days next preceding the giving of such notice: Provided always, that if both of such parties have resided in the same district for not less than seven days as aforesaid, or if one of such parties is not, or has not resided, in Western Australia for seven days immediately preceding the giving of such notice, then notice as aforesaid by one of such parties shall be deemed to be notice on behalf of each of such parties; and
- (3) the certificates or certificate according to the circumstances of the case hereinafter required of the giving of such notice are or is produced to such district registrar before such marriage.

District Registrar not to celebrate marriage except after notice given. 58 Vict. No. 11, s. 13, amended by No. 23 of 1948, s. 6.

Sixth Schedule.

Certificate produced.

14. [*Repealed by No. 7 of 1907, section 3.*]

Marriage not to be celebrated except by District Registrar to whom notice is given.

Form of marriage by District Registrar. 58 Vict. No. 11, s. 15. Eighth Schedule.

15. No marriage shall be celebrated by a district registrar except in his office and except in the form of words set forth in the Eighth Schedule to this Act, which form of words shall be repeated and signed by the parties to such marriage respectively.

Notice to be posted and entered in Marriage Notice Book. 58 Vict. No. 11, s. 16, repealed and new section substituted by No. 7 of 1907, s. 9. Sixth Schedule.

16. The district registrar receiving the notice in the form contained in the Sixth Schedule, signed by one of the parties to the intended marriage, shall forthwith post such original notice in a conspicuous place in his office, and a true copy thereof on the outside of the outer door of the building wherein such office is situated, where they shall remain posted for seven consecutive days; and shall also enter a true copy of such notice into a book provided for that purpose, to be called "The Marriage Notice Book"; and for every entry so made the district registrar shall charge the fee of one shilling; and such book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

After seven days certificate of notice to be given. 58 Vict. No. 11, s. 17.

17. After the expiration of seven days from the giving of such notice the district registrar receiving the same shall, upon the request of or on behalf of either party to the marriage mentioned in such notice, and upon payment of the fee of one shilling, issue under his hand a certificate in the form contained in the Ninth Schedule to this Act, unless—

Ninth Schedule.

- (1) it is shown to the satisfaction of such district registrar that some lawful impediment exists why such certificate should not issue, or
- (2) the issue of such certificate is forbidden in the manner hereinafter mentioned by any person whose consent to such marriage is required by law.

Issue of District Registrar's certificate may be forbidden. 58 Vict. No. 11, s. 18.

18. Any person whose consent to a marriage is required by law may forbid the issue by a district registrar of such certificate, by writing or causing to be written, at any time before such issue, the word "forbidden" opposite to the entry of the notice of

such marriage in the Marriage Notice Book, and by subscribing or causing to be subscribed thereto his place of abode and character as parent or guardian.

19. Every district registrar shall, on the first day of every month, transmit to the office of the Registrar General all notices of marriages received by such district registrar and all certificates thereof received by him during the month preceding, and such notices and certificates shall be thereafter kept in such office in such order and manner as the Registrar General thinks fit, so that such notices and certificates may be most readily seen and examined.

Notices to be sent to Registrar General.
58 Vict.
No. 11, s. 19.

Marriage by Special License.

20. When by reason of the parties to an intended marriage, or one of them, residing at a distance of fifty miles—

Governor or resident magistrate may grant Special License in certain cases.
58 Vict.
No. 11, s. 20.

- (a) from a church belonging to the religious denomination according to the rites of which the parties desire to be married; or
- (b) from the office of a district registrar; or

when, by reason of special circumstances, it is shown to the satisfaction of the Governor or any resident magistrate that there exists a good reason for the speedy celebration of a marriage, and that the circumstances of the case will not admit of a compliance with the provisions of this Act as to the publication of banns or the posting or giving of notice of such marriage, then in such case the Governor or any resident magistrate may grant his license for the celebration of such marriage without compliance with such provisions, in the form in Tenth Schedule to this Act, and thereupon such marriage may be celebrated. Such license shall be produced and delivered to the person about to celebrate the marriage, and after the celebration thereof shall be transmitted, with the register form of marriage, in the case of a minister, to the district registrar, and, in the case of a district registrar, to the Registrar General.

Tenth Schedule.

Marriage between Jews.

Celebration
of marriages
between
Jews.

No. 7 of
1907, s. 14.

20A* (1) Marriages between parties both of whom are Jews may be celebrated—

- (1) by a minister or other person of the Jewish religion, whose name, designation, and usual place of residence have been and continue to be duly registered according to law, in the office of the Registrar General, as authorised to celebrate marriages; or
- (2) by a district registrar in the manner provided by the principal Act for the marriage of persons by district registrars.

Validating
certain
marriages.

No. 7 of
1907, s. 16.

(2) Notwithstanding any act, usage, or custom to the contrary, no marriage heretofore celebrated by a district registrar between persons both of whom are Jews, in accordance with the provisions regulating the marriage of persons other than Jews, shall be impeachable on the ground only that such marriage was celebrated by a district registrar.

PART IV.—OFFENCES.

Certain
offences by
ministers
and district
registrars
and others
to be mis-
demeanours.
See Criminal
Code Act,
1913,
Schedule,
Chapter
XXIV.

Minister of
Religion not
registered by
reason of
inadvertence
and
celebrating
marriage
summarily
punishable.
58 Vict.
No. 11, s. 22.

21. [*Repealed* by 1 and 2 Edwd. VII., No. 14, section 3.]

22. Any minister of religion whose name, designation, religious denomination, and usual place of residence have not been and do not continue to be duly registered as a minister authorised to celebrate marriages by reason of accident or inadvertence, and who celebrates a marriage, shall be guilty of an offence against this Act, and summarily punishable, upon conviction before two or more justices of the peace, by a penalty not exceeding twenty pounds.

Minister,
district
registrar, or
other person
failing in
performance
of duty
summarily
punishable.
58 Vict.
No. 11, s. 23.

23. Any minister or district registrar or other person failing in any way in the performance of their respective duties to comply with the provisions

* The provisions of this section were enacted by sections 14 and 16 of No. 7 of 1907. They were incorporated and numbered as section 20A in the Marriage Act, 1894-1932, as reprinted and published in the Sessional Volume of Statutes for the year 1934.

of this Act shall be guilty of an offence against this Act, and be summarily punishable, upon conviction before two or more justices of the peace, by a penalty not exceeding fifty pounds and not less than ten pounds.

24. [Repealed by 1 and 2 Edwd. VII., No. 14, section 3.]

False statement to be deemed perjury. See Criminal Code Act, 1913, Schedule, ss. 169, 170.

25. [Repealed by 1 and 2 Edwd. VII., No. 14, section 3.]

Abetting an irregular marriage a misdemeanour. See Criminal Code Act, 1913, Schedule, Chapter XXXIV.

26. [Repealed by 1 and 2 Edwd. VII., No. 14, section 3.]

Forging consent to minor's marriage or certificate of marriage. See Criminal Code Act, 1913, Schedule, s. 471, and s. 473 (4), (k), (l), (m), (n).

PART V.—MISCELLANEOUS.

27. Every marriage celebrated by a minister or district registrar after the declaration upon oath or solemn affirmation by the parties to such marriage in the form contained in the Second Schedule to this Act shall be a legal and valid marriage to all intents and purposes.

Every marriage celebrated after declaration made to be valid. 58 Vict. No. 11, s. 27, amended by No. 7 of 1907, s. 10. Second Schedule.

28. No marriage shall be deemed to have been unduly celebrated by reason only of any mere defect or error in such declaration, or in any notice or certificate required before solemnisation, or in the registration of the marriage when solemnised, if the identity of the parties to such marriage shall not be in question.

Marriage not to be vitiated by error in declaration. 58 Vict. No. 11, s. 28, amended by No. 7 of 1907, s. 11.

29. No marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a minister or district registrar respectively, if either of the parties to such marriage at the time thereof *bona fide* believes that such person was a minister or district registrar respectively.

Marriage not to be avoided by reason of celebration by a person other than a minister or District Registrar. 58 Vict. No. 11, s. 29.

Marriage not to be avoided by reason of non-registration of minister or improper appointment of District Registrar.
58 Vict. No. 11, s. 30.

30. No marriage shall be avoided by reason of the omission of the minister celebrating the same to cause his name, designation, religious denomination, or usual place of residence to be registered according to law, or by reason of the same ceasing to be so registered, or by reason of the improper or defective appointment of the district registrar celebrating such marriage.

Amendments to apply to existing Marriages.
No. 7 of 1907, s. 12.

30A†. No marriage celebrated before the passing of the Marriage Act Amendment Act, 1907, shall be avoided for any infringement of the principal Act* if such marriage would not be avoided under the principal Act as amended by the Marriage Act Amendment Act, 1907.

Monthly returns.
No. 7 of 1907, s. 13.

30B‡. Every minister shall, on the first day of every month, transmit to the Registrar General a return, in the prescribed form, of all marriages celebrated by him, or stating that no marriage has been celebrated by him (as the case may be), within the State during the month last preceding.

Copy of Registry to be evidence of marriage.
58 Vict. No. 11, s. 31.

31. A copy of the marriage registry to be kept in the office of the Registrar General and under his hand of any marriage shall be deemed to be evidence in all proceedings, civil or criminal, of the fact that such marriage has been duly celebrated, until the contrary is shown.

Marriage with deceased wife's sister to be valid.
58 Vict. No. 11, s. 32.

32. No marriage between any man and the sister of his deceased wife shall within Western Australia be voidable or in anywise impeachable upon the ground only of such affinity between the parties thereto, any law, usage, or custom to the contrary notwithstanding.

Marriage with deceased husband's brother.
New section inserted by No. 48 of 1915, s. 2.

32A. No marriage heretofore or hereafter contracted between a woman and her deceased husband's brother shall be deemed to have been or shall

† The provisions of this section were enacted by section 12 of No. 7 of 1907, and were incorporated and numbered as section 30A in the Marriage Act, 1894-1932, as reprinted and published in the Sessional Volume of Statutes for the year 1934.

* The Marriage Act, 1894. See No. 7 of 1907, Section 1.

‡ The provisions of this section were enacted by section 13 of No. 7 of 1907, and were incorporated and numbered as section 30B in the Marriage Act, 1894-1932, as reprinted and published in the Sessional Volume of Statutes for the year 1934.

be void or voidable by reason only of such affinity:
Provided that—

- (a) if any such marriage shall have been heretofore annulled by lawful decree or if either party thereto shall heretofore (after the marriage and during the life of the other) have lawfully married another, then such marriage shall be deemed to have become and to be void upon and after the date of the decree or the subsequent marriage;
- (b) this section shall not deprive or be held to have deprived any person of any property or right heretofore lawfully vested in him;
- (c) no will shall be deemed to be or to have been revoked by reason of any marriage heretofore contracted as aforesaid being validated by this section.

32B. No marriage heretofore or hereafter contracted between a man and the daughter of his deceased wife's brother, or the daughter of his deceased wife's sister, or between a woman and the son of her deceased husband's brother, or the son of her deceased husband's sister, shall be deemed to have been or shall be void or voidable by reason only of such affinity:

Marriage with daughter of deceased wife's brother, etc. New section inserted by No. 46 of 1932, s. 2.

Provided that this section shall not have effect if the man stands in the relationship (of the whole blood or of the half blood) of brother to a parent of the daughter of a deceased wife's brother or of the daughter of a deceased wife's sister, or the woman stands in the relationship (of the whole blood or of the half blood) of sister to a parent of the son of a deceased husband's brother or of the son of a deceased husband's sister.

33. Nothing in this Act contained shall legalise any marriage declared or made invalid by any court of competent jurisdiction, nor any marriage either party to which at the time of the celebration thereof has another wife or husband living, nor any marriage other than a marriage between a widower and the sister of his deceased wife, or (subject to the proviso to section thirty-two B) the daughter

Nothing in this Act to legalise certain marriages. 58 Vict., No. 11, s. 33, amended by No. 48 of 1915, s. 3.; and No. 46 of 1932, s. 3.

of his deceased wife's brother or the daughter of his deceased wife's sister, or between a widow and the brother of her deceased husband, or (subject as aforesaid) the son of her deceased husband's brother or the son of her deceased husband's sister, which would be void by reason of relationship, kindred, or alliance, nor any marriage which would be void by reason of fraud or incapacity to contract marriage.*

Marriages
of Quakers.
58 Vict.
No. 11, s. 34,
amended by
62 Vict.,
No. 23, s. 4.

34. Nothing in this Act previously contained shall extend to be construed to extend to any marriage between parties, both of whom are Quakers, if such marriage is celebrated according to the usages of the Quakers.

Such
marriages
to be valid.
58 Vict.
No. 11, s. 35,
amended by
62 Vict.,
No. 23, s. 5.

35. Every such marriage celebrated according to the usages of the Quakers shall be as legal and valid as any other marriage duly celebrated under this Act.

*Section 2 of the Marriage Act, 1835 (5 & 6 Will. IV., c. 54, adopted by 7 Vict., No. 13), is as follows:—

All marriages which shall hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity shall be absolutely null and void to all intents and purposes whatsoever.

The prohibited degrees, which had received statutory recognition, were expressed in the table set forth by authority in the year 1563, as follows:—

- (a) A man may not marry his grandmother, grandfather's wife, wife's grandmother, father's sister, mother's sister, father brother's wife, mother's brother's wife, wife's father's sister, wife's mother's sister, mother, step-mother, wife's mother, daughter, wife's daughter, son's wife, sister, wife's sister,* brother's wife,* son's daughter, daughter's daughter, son's son's wife, daughter's son's wife, wife's son's daughter, wife's daughter's daughter, brother's daughter, sister's daughter, brother's son's wife, sister's son's wife, wife's brother's daughter,* wife's sister's daughter.*
- (b) A woman may not marry her grandfather, grandmother's husband, husband's grandfather, father's brother, mother's brother, father's sister's husband, mother's sister's husband, husband's father's brother, husband's mother's brother, father, step-father, husband's father, son, husband's son, daughter's husband, brother, husband's brother,* sister's husband,* son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, husband's son's son, husband's daughter's son, brother's son, sister's son, brother's daughter's husband, sister's daughter's husband, husband's brother's son,* husband's sister's son.*

* As to marriages with a deceased wife's sister, see section 32 of this Act; with a deceased husband's brother, see section 32A; with the daughter of a deceased wife's brother or sister, or with the son of a deceased husband's brother or sister, see section 32B.

36. (1) The particulars of every such marriage required to be registered by the law regulating the registration of marriages shall, within seven days from the celebration of the marriage, be given in writing by the person celebrating the same to the district registrar, who shall register such marriage in triplicate, and observe the same procedure and law in respect of such registration as is enacted in respect of the registration of any other marriage.

Such marriages to be registered like other marriages. 58 Vict. No. 11, s. 36.

(2) Any person celebrating such marriage and failing to give such particulars to the district registrar shall be subject to the like penalties and punishable in the same manner as a minister failing in the performance of his duties to comply with the provisions of the law regulating the registration of marriages.

Penalty.

37. Whenever under the provisions of this Act any person being illiterate or unable to write is required to sign any declaration, certificate, consent, statement, notice or other document, such person may express his assent thereto by making his mark in the presence of an attesting witness.

Mark may be made in lieu of signature to documents. 58 Vict. No. 11, s. 37.

37A*. (1) The Governor may make regulations—

Regulations. No. 7 of 1907, s. 17.

- (a) for the preparation and transmission of all returns and certificates from ministers and district registrars respectively;
- (b) prescribing the necessary forms for all books, certificates, and documents;
- (c) for all other matters necessary to carry out the provisions of this Act.

See Registration of Births, Deaths and Marriages Act, 1894-1948, s. 19.

(2) All such regulations shall be notified in the *Gazette*, and shall thereupon have the force of law.

See Interpretation Act, 1918-1948, s. 36.

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. New section added by No. 23 of 1948 s. 7.

* The provisions of this section were enacted by section 17 of No. 7 of 1907, and were incorporated and numbered as section 37A in the Marriage Act, 1894-1932, as reprinted and published in the Sessional Volume of Statutes for the year 1934.

Incorporation of Shortening Ordinance. 53 Vict. No. 11, s. 38.

38. Sections A, E, F, G, and H of the Shortening Ordinance, 1853, shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Section 3.

SCHEDULES.

FIRST SCHEDULE.

No. and Year of Act.	Title.
19 Vic. No. 11	An Ordinance to amend and consolidate the laws affecting the solemnisation of matrimony in the Colony of Western Australia.
41 Vic. No. 21	An Act to legalise the marriage of a man with the sister of his deceased wife.
43 Vic. No. 28	The Marriage Law Amendment Act, 1879.

Section 7.

SECOND SCHEDULE.

DECLARATION BEFORE MINISTER OR DISTRICT REGISTRAR.

(To be endorsed on Marriage Certificate to be transmitted to Registrar General.)

I, A. B., of (*usual place of residence and designation or employment*), make oath and say (*or if objecting to take an oath, "do solemnly and sincerely declare and affirm"*) that 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 C. D., of (*usual place of residence and occupation, if any*), daughter of E. F., of (*usual place of residence and occupation*).

Signature of A. B.

Sworn (*or solemnly declared and affirmed*) by }
the said A. B., this day of }
19.

Before me

(Signature of Minister or District Registrar.)

And I, the said C. D., make oath and say (*or, "do solemnly and sincerely declare and affirm"*) that I believe that there is no impediment or lawful objection, by any such reason or other lawful cause as aforesaid, to my being married to the said A.B.

Signature of C. D.

Sworn (*or solemnly declared and affirmed*) by }
the said C. D., this day of }
19

Before me

(Signature of Minister or District Registrar.)

† The Shortening Ordinance, 1853, was repealed by 62 Vict., No. 30, s. 2. The provisions corresponding with this section are now Section 47 and Schedule 2 of the Interpretation Act, 1918-1948.

Marriage.

Section 12,
13, and 16.

SIXTH SCHEDULE.

NOTICE OF MARRIAGE.

To the District Registrar of the Registry District of _____ in
Western Australia.

I hereby give you notice that a marriage is intended to be celebrated within three calendar months from the entry hereof between me and the other party herein named and described, that is to say:—

Name.	Condition.	Rank or profession or occupation.	Age over or under 21.	Residence.	State length of residence. If over 7 days insert more than one week.
Intended Husband					
Intended Wife					

Witness my hand this _____ day of _____ 19 _____
(Signature of party giving notice.)

SEVENTH SCHEDULE.

[Repealed by No. 23 of 1948, S. 9.]

Section 15.

EIGHTH SCHEDULE.

FORM OF MARRIAGE BEFORE A DISTRICT REGISTRAR.

I, A.B., of (*usual place of residence and occupation*) do hereby declare in the presence of C.D., Registrar of Marriages for the district of _____ that I take E.F. of (*usual place and occupation*) to be my lawful wife; and I, the said E.F., do declare that I take the said A.B. to be my lawful husband.

Signatures }
of parties. }

Section 17.

NINTH SCHEDULE.

District Registrar's Certificate.

I, _____, District Registrar for the Registry District of _____ in Western Australia, do hereby certify that on the _____ day of _____ 19 _____, notice was

Marriage.

duly entered in the Marriage Notice Book of the said District of the marriage intended between the parties therein named and described, that is to say:—

Name.	Condition.	Rank or profession or occupation.	Age over or under 21.	Residence.	State length of residence. If over 7 days insert more than one week.

Date of notice received, entered, and posted up 19 .	}	The issue of this Certificate has not been forbidden by any person authorised to forbid the issue thereof.
Date of Certificate given 19 .	}	Dated this day of 19 . <div style="text-align: right;"> District Registrar. </div>

Note.—This Certificate will be void unless the marriage is celebrated within three months from the receipt of the above notice.

TENTH SCHEDULE.

Section 20.

License for Marriage.

WHEREAS you, A.B., and you, C.D., are minded to enter into a contract of marriage under the provisions of the Marriage Act, 1894, and are desirous that the same may be speedily celebrated: And whereas you have respectively signed the declaration required by the said Act to be signed previous to marriage, and have satisfied me that you, the said A.B. and C.D. have had your usual place of abode within the district of (or districts of and respectively), and that there exists good reason for the speedy celebration of your marriage, and that the circumstances of the case will not admit of a compliance with the provisions of the said Act as to the publication of banns or the posting or giving of notice of the marriage. I do, therefore, hereby grant unto you full license, according to the authority given to me by the said Act, to proceed to the celebration of your marriage, provided that the same be celebrated within one month from the date hereof.

Given under my hand this day of , 19 .
(Signature.)

Note.—This License must be transmitted by a minister celebrating a marriage by virtue thereof to the District Registrar, with the register form of marriage.

Eleventh
Schedule
added by
No. 23 of
1948, s. 10.

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>
<p>1.—Where both parents are living</p> <p>(a) If both parents living together.</p> <p>(b) If parents are divorced or separated by any Court or by agreement.</p> <p>(c) If both parents deprived of custody of infant by order of any Court.</p>	<p>Both parents.</p> <p>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.</p> <p>The person to whose custody the infant is committed by order of the Court.</p>
<p>2.—Where one parent is dead—</p> <p>(a) If there is no other guardian.</p> <p>(b) If a guardian has been appointed by the deceased parent or by any Court.</p>	<p>The surviving parent.</p> <p>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.</p>
<p>3.—Where both parents are dead.</p>	<p>The guardian or guardians appointed by the deceased parents or by any Court.</p>

II.—Where the Infant is Illegitimate.

<i>Circumstances.</i>	<i>Person whose Consent is Required.</i>
<p>1.—If the mother of the infant is alive.</p>	<p>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.</p>
<p>2.—If the mother of the infant is dead.</p>	<p>The guardian appointed by the mother or by any Court.</p>