

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 21 of 1929.

## AN ORDINANCE

### Relating to Marriage.

**B**E it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910*, as follows :—

#### PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Marriage Ordinance 1929*. Short title.
2. This Ordinance shall commence on the first day of January Commencement.  
One thousand nine hundred and thirty.
3. The following Acts of the State of New South Wales shall State Acts to  
cease to apply. cease to apply to the Territory, namely :—  
*Marriage Act 1899* ;  
*The Legitimation Act of 1902*.

4. This Ordinance is divided into Parts, as follows :—

Parts.

Part I.—Preliminary.  
Part II.—Celebration of Marriages.  
Part III.—Offences.  
Part IV.—Legitimation.  
Part V.—Miscellaneous.

- 5.—(1.) In this Ordinance, unless the contrary intention appears— Definitions.

“Registered clergyman” means any minister of religion who has been registered to celebrate marriages under the *Registration of Births, Deaths and Marriages Ordinances 1929* ;

“Registrar” means the Registrar of Births, Deaths and Marriages appointed under the *Registration of Births, Deaths and Marriages Ordinances 1929*, and includes the Principal Registrar and Deputy Principal Registrar ;

“Ex-nuptial child” means a child not born in lawful wedlock ;

“Principal Registrar” means the Principal Registrar of Births, Deaths and Marriages appointed under the *Registration of Births, Deaths and Marriages Ordinances 1929*.

- (2.) Any reference in this Ordinance to a form shall be read as a reference to a form in the Schedules to this Ordinance.

## PART II.—CELEBRATION OF MARRIAGES.

Marriages to be celebrated only after notice.

6. A clergyman or Registrar shall not celebrate any marriage unless the parties about to be married or one of them has given him written notice of their intended marriage at least three clear days before the performance of such marriage :

Provided that, in cases of emergency, the Principal Registrar may dispense with the giving of such notice.

Persons authorized to celebrate marriages.

7.—(1.) A registered clergyman or a Registrar may celebrate marriages.

(2.) Where the parties to be married sign before a Registrar a declaration in accordance with the First Schedule to this Ordinance, the marriage may be celebrated between such parties by the Registrar in the form of words set forth in the Second Schedule to be repeated and signed by the parties to such marriage respectively.

Witnesses.

8. Every marriage shall be celebrated in the presence of at least two witnesses of full age.

Declaration.

9.—(1.) A marriage shall not be celebrated unless and until each of the parties about to be married has made on oath or solemn affirmation before the clergyman or Registrar celebrating the marriage a declaration in accordance with the Third Schedule of this Ordinance indorsed upon the certificate of marriage prescribed by the *Registration of Births, Deaths and Marriages Ordinances* 1929, and such declaration shall be signed by each of the parties about to be married and by the clergyman or Registrar.

(2.) A certificate of marriage and any copy thereof shall bear the following foot-note printed in red ink :—

“ *Note.*—The declaration on the back hereof must be duly made and signed otherwise the parties and the clergyman or Registrar shall be guilty of an offence.”

(3.) After the celebration of the marriage, the certificate of marriage shall be signed by the clergyman or Registrar and by the parties and by the witnesses, and a copy of such certificate shall be handed by the clergyman or Registrar celebrating the marriage to one of the parties to the marriage.

Essentials for valid marriage.

10. Any marriage celebrated by a registered clergyman or a Registrar in accordance with this Ordinance shall be a legal and valid marriage.

Transmission of original certificate.

11. Within one month after the marriage the clergyman celebrating the marriage shall transmit the original certificate to the Principal Registrar.

12.—(1.) If either party to an intended marriage not being a Minors. widower or widow is under the age of twenty-one years, the marriage shall not take place without production to the clergyman or Registrar about to celebrate the same—

- (a) of the written consent of the father of such party if within the Territory or if not within the Territory then of a guardian duly appointed by the father ;
- (b) if there is no such guardian in the Territory, then of the written consent of the mother of such party if within the Territory ; or
- (c) where there is no such parent or guardian in the Territory, or he or she is incapable of duly consenting by reason of distance, habitual intoxication or mental incapacity, then of the written consent of the Principal Registrar who shall make due inquiry as to the facts and circumstances of the case before giving his consent.

(2.) Where a marriage is celebrated upon the production of any such written consent, a statement of the fact of such consent shall be indorsed on the certificate of such marriage and on any copy thereof signed by the clergyman or Registrar, as the case may be, celebrating the marriage.

13. A marriage shall not be avoided by reason only of the same having been celebrated by a person not being a registered clergyman if either of the parties to the marriage at the time *bona fide* believed that he was a registered clergyman. Celebration by a person not a registered clergyman.

14. A marriage shall not be deemed to have been unduly celebrated by reason only of any mere defect or error in the declaration made respecting the marriage where the identity of the parties to the marriage is not in question. Defect or error in declaration.

15. A marriage shall not be affected by reason of the failure of the minister of religion celebrating the same to be registered as a clergyman under the *Registration of Births, Deaths and Marriages Ordinances* 1929. Omission of Minister to register his name.

16. A marriage celebrated in the Territory shall not be deemed to be or be declared invalid by reason only of the fact that both or either of the parties to such marriage have not made the prescribed declaration. Omission to make declaration.

17. Any marriage celebrated in the Territory between any person and the sister of his deceased wife, or between any person and the widow of his deceased brother, shall be valid and of full force and effect, any law or custom to the contrary notwithstanding. Marriage with deceased wife's sister.

## PART III.—OFFENCES.

Minister celebrating marriage when unregistered.

18. Any minister of religion or person officiating as such who celebrates any marriage knowing that he has not been duly registered as a clergyman in accordance with the *Registration of Births, Deaths and Marriages Ordinances 1929* shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year.

Omission to transmit certificate.

19. Any clergyman having celebrated any marriage who fails to comply with the provisions of this Ordinance respecting the certificate to be transmitted to the Principal Registrar shall be guilty of an offence.

Penalty: Fifty pounds.

Celebrating marriage without complying with Ordinance.

20. Any clergyman or Registrar who celebrates or professes or attempts to celebrate any marriage contrary to the provisions of this Ordinance or where any provisions or requirements of this Ordinance have not been complied with shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year.

Persons marrying without making declaration.

21. Any person who goes through the ceremony of marriage without having first made and signed the prescribed declaration shall be guilty of an offence.

Penalty: Fifty pounds.

Knowingly celebrating marriage of a minor without consent.

22. Any clergyman or Registrar who celebrates or professes or attempts to celebrate marriage in the case of any person under the age of twenty-one years not being a widower or widow without the prescribed written consent knowing him or her to be under that age or knowing that the consent produced is not by the appropriate person shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year.

Knowingly marrying a minor without consent

23. Any person who—

- (a) wilfully marries a person under the age of twenty-one years and whom he knows to be under that age without having previously obtained the prescribed written consent; or
- (b) induces or endeavours to induce any clergyman or Registrar to celebrate a marriage between parties one of whom he knows to be under age without the prescribed written consent,

shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year.

## PART IV.—LEGITIMATION.

Legitimation of ex-nuptial children.

24. Any child born before the marriage of his or her parents, and whether before or after the commencement of this Ordinance, whose parents have intermarried, shall be deemed on the registration of such child as hereafter provided to have been legitimated by such marriage from birth and shall be entitled to all the rights of a child born in wedlock.

25. If, before or after the commencement of this Ordinance, a legitimated child dies before the marriage of his parents, his issue shall take, by operation of law, the same real and personal property which would have accrued to such issue if his parents had been born in wedlock.

Issue of legitimated child dying before marriage of parents.

26. Nothing in this Ordinance shall affect any estate, right or interest in any real or personal property to which any person has become or may become entitled, either mediately or immediately in possession, or expectancy by virtue of any disposition made before the passing of this Ordinance or by virtue of any devolution by law on the death of any person dying before the passing of this Ordinance.

Certain estates rights or interests not affected.

27. Nothing in this Ordinance shall have the effect of legitimating any child if at the time of the birth of such child there existed any legal impediment to the intermarriage of the parents of such child.

Limit to legitimation.

28.—(1.) When any man who claims to be the father of any ex-nuptial child, whose mother he has married since the birth of such child, produces to a Registrar a statutory declaration in accordance with the form in the Fourth Schedule, the Registrar shall register such child, whether alive or dead, as the lawful issue of such man and his wife, and the Registrar shall make a note in the entry underneath his signature to the effect that such registration has been made under the authority of this Ordinance.

Registrar to register such child.

(2.) If the child has previously been registered as ex-nuptial, the Registrar shall also make in the register on the page on which the previous entry was made a note of the entry made under this Ordinance and shall notify the Principal Registrar that such entries have been made.

#### PART V.—MISCELLANEOUS.

29. The Deputy Principal Registrar shall, in the absence of the Principal Registrar, perform all the duties and exercise all the powers and functions of the Principal Registrar.

Exercise of powers of Principal Registrar during his absence.

30. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

Regulations.

- (a) the forms to be used in connexion with this Ordinance and the modification or variation of the forms in the Schedules or the substitution of other forms for those forms; and
- (b) the fees to be charged for the performance of the several acts, matters or things provided for in this Ordinance.

## THE SCHEDULES.

### THE FIRST SCHEDULE.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*Marriage Ordinance 1929.*

#### FORM OF DECLARATION TO AUTHORIZE MARRIAGE BEFORE REGISTRAR.

We \_\_\_\_\_ of (*usual place of residence and designation or employment*)  
and \_\_\_\_\_ of (*usual place of residence and employment*) do hereby  
declare that we are desirous of being married and that the place where (*name*  
*of intended wife*) usually resides is at (*usual place of her residence*).  
(*Signature*)

Signed by the parties this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
before me, \_\_\_\_\_ Registrar.

### THE SECOND SCHEDULE.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*Marriage Ordinance 1929.*

#### FORM OF MARRIAGE BEFORE REGISTRAR.

I \_\_\_\_\_ of (*usual place of residence and designation or employment*)  
do hereby declare in the presence of \_\_\_\_\_, District Registrar, that I take  
of (*usual place of residence and designation or employment*)  
be my lawful wife. AND I the said \_\_\_\_\_ do declare that I take the said  
to be my lawful husband.  
(*Signature*)

Signed by the parties this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
before me, \_\_\_\_\_ Registrar.

### THE THIRD SCHEDULE.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*Marriage Ordinance 1929.*

#### DECLARATION BEFORE REGISTRAR OR CLERGYMAN TO BE INDORSED ON MARRIAGE CERTIFICATE FORM.

I, \_\_\_\_\_ of (*usual place of residence, condition and designation*  
*or employment*) being duly sworn do on my oath declare (*or if objecting to take an oath*  
do solemnly and sincerely declare and affirm) that I have attained the age of twenty-  
one years (*or if not of the age of twenty-one years and not a widower*) that I have duly  
obtained the written consent required by the *Marriage Ordinance 1929*, and I believe  
there is no impediment or lawful objection by reason of any kindred relationship or  
alliance or any former marriage or the want of consent of parents or guardians or any  
other lawful cause to my being married to \_\_\_\_\_ of (*usual place of residence,*  
*condition and designation or employment*) daughter of \_\_\_\_\_ of (*usual*  
*place of residence and designation*) and I hereby further declare that I have full know-  
ledge that if I swear or affirm falsely I shall be guilty of perjury and be liable to  
punishment accordingly.

(*Signature*)

AND I the said \_\_\_\_\_ (*condition*) being duly sworn do on my oath  
declare (*or, if objecting to take an oath, do solemnly and sincerely declare and affirm*)  
that I have attained the age of twenty-one years (*or, if not of the age of twenty-one*  
*years and not a widow*) that I have duly obtained the written consent required by the  
*Marriage Ordinance 1929* and I believe there is no impediment or lawful objection  
by reason of any kindred relationship or alliance or any former marriage or the want  
of consent of parents or guardians or any other lawful cause to my being married to  
the said \_\_\_\_\_

AND I hereby further declare that I have full knowledge that if I swear or affirm  
falsely I shall be guilty of perjury and be liable to be punished accordingly.

(*Signature*)

Declared and sworn (or affirmed) by both of the parties named this \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_\_  
Before me

(*Signature and designation of Registered Clergyman or Registrar.*)

THE FOURTH SCHEDULE.

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

*Marriage Ordinance 1929.*

STATUTORY DECLARATION IN CONNEXION WITH APPLICATION FOR LEGITIMATION OF CHILD.

I, \_\_\_\_\_ of \_\_\_\_\_ in the Territory for the Seat of Government do solemnly and sincerely declare as follows :—

1. That I am the father of a certain child, named, \_\_\_\_\_ born on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_

2. That I was married to \_\_\_\_\_ the mother of the said child, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, and I am desirous of having the birth of the said child registered as that of the lawful issue of myself and the said \_\_\_\_\_

3. That the document hereunto annexed is a true and correct copy of the certificate of my marriage with the said \_\_\_\_\_

4. That no legal impediment to the marriage of myself and the said \_\_\_\_\_ existed at the time of the birth of the said child.

And I make this solemn Declaration by virtue of the *Statutory Declarations Act 1911* conscientiously believing the statements contained herein to be true in every particular.

Declared at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Before me

*(Here insert title of person before whom declaration is made.)*

To the—

Registrar of Births, Deaths and Marriages  
at \_\_\_\_\_

Dated this seventeenth day of December, One thousand nine hundred and twenty-nine.

STONEHAVEN

Governor-General.

By His Excellency's Command,

FRANK BRENNAN

for Minister of State for Home Affairs.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.