

# Marriage Act

CHAPTER 436 OF THE REVISED STATUTES, 1989

*as amended by*

1992, c. 16, s. 129; 1996, c. 23, ss. 40-43; 1999, c. 4, ss. 31, 32;  
2010, c. 74; 2013, c. 28; 2017, c. 15; 2018, c. 43, ss. 19-21



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CHAPTER 436 OF THE REVISED STATUTES, 1989  
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2010, c. 74; 2013, c. 28; 2017, c. 15; 2018, c. 43, ss. 19-21

**An Act Respecting the  
Solemnization of Marriage**

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(The table of contents is not part of the statute)

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### Short title

**1** This Act may be cited as the *Marriage Act*. R.S., c. 436, s. 1; 2017, c. 15, s. 1.

### INTERPRETATION

#### Interpretation

- 2** In this Act,
- (a) *repealed 2017, c. 15, s. 2.*
  - (b) *repealed 1996, c. 23, s. 40.*
  - (c) “issuer” means a person appointed to be a deputy issuer of marriage licenses;
  - (d) “license” means a marriage license;
  - (da) “Minister” means the Minister of Service Nova Scotia;
  - (e) “Registrar” means the Registrar General and includes the Deputy Registrar General;

(f) “religious body” means any church or any religious denomination, sect, congregation or society;

(g) “religious representative” includes a person authorized to be registered under subsection (1A) of Section 6. R.S., c. 436, s. 2; 1996, c. 23, ss. 40, 43; 2017, c. 15, s. 2.

#### ADMINISTRATION

##### **Administration of Act**

**3** The Registrar General for the Province referred to in the *Vital Statistics Act* shall have general supervision over the administration of this Act. R.S., c. 436, s. 3.

#### WHO MAY SOLEMNIZE MARRIAGE

##### **Persons authorized to solemnize marriage**

**4 (1)** No marriage shall be valid unless it is solemnized by a person authorized under this Act to solemnize marriage.

**(2)** Every person registered under this Act is authorized to solemnize marriage.

**(3)** A judge of any court in the Province is authorized to solemnize marriage.

**(4)** A justice of the peace may be designated by the Minister of Justice to solemnize marriage.

**(5)** Where a judge or other person authorized to solemnize marriage in another province is temporarily in the Province, the judge or other person may apply to the Minister of Justice to be designated to solemnize a marriage in the Province. R.S., c. 436, s. 4; 1992, c. 16, s. 129; 1996, c. 23, s. 41; 2017, c. 15, s. 3.

#### REGISTRATION OF MINISTERS, CLERICS AND RELIGIOUS REPRESENTATIVES

##### **Registration**

**5 (1)** Upon application in the form prescribed by the Registrar, the Registrar may register any minister, cleric or religious representative of a religious body as authorized to solemnize marriage.

**(2)** The application for registration may be made on behalf of the minister, cleric or religious representative by a governing authority having jurisdiction in this Province of the religious body to which the minister, cleric or religious representative belongs or may be made by the person desiring to be registered.

(3) On such registration, the Registrar shall issue a certificate of registration in respect of each person registered under this Act, or may include in one certificate the names of any number of persons who belong to the same religious body.

(4) The Registrar shall keep a register showing the name of every person so registered, the name of the religious body to which each person belongs and the date of registration. R.S., c. 436, s. 5; 1996, c. 23, s. 43; 2017, c. 15, s. 5.

#### Conditions for registration

6 (1) No person shall be registered under this Act unless it appears to the satisfaction of the Registrar that

(a) the person is a minister, cleric or religious representative duly ordained or appointed according to the rites and usages of the religious body to which the person belongs, or is by the rules of that religious body deemed duly ordained or appointed by virtue of some prior ordination or appointment;

(b) the person is duly recognized by the religious body to which the person belongs as authorized to solemnize marriage according to its rites and usages;

(c) the religious body to which the person belongs is sufficiently well established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, to warrant, in the opinion of the Registrar, the registration of its ministers, clerics or religious representatives as authorized to solemnize marriage; and

(d) the person is resident in the Province.

(1A) Notwithstanding subsection (1), where it appears to the Registrar that the doctrines of a religious body do not recognize any person as authorized to solemnize marriage, the Registrar may register a person duly designated by the governing authority having jurisdiction in the Province of the religious body to perform all the duties imposed upon a person solemnizing a marriage by this Act and the *Vital Statistics Act* in respect of marriages performed according to the rites, usages and customs of the religious body.

(2) In the case of a minister, cleric or religious representative who is in the Province temporarily and who, if resident in the Province, might be registered pursuant to subsection (1) as authorized to solemnize marriage, the Registrar may grant to that minister, cleric or religious representative temporary registration and may register that minister, cleric or religious representative as authorized to solemnize marriage during the period to be fixed by the Registrar, and the certificate of registration issued thereon shall state the period so fixed during which the authority to solemnize marriage may be exercised. R.S., c. 436, s. 6; 1996, c. 23, s. 43; 2017, c. 15, s. 6.

**Cancellation of registration**

- 7 (1) Where it appears to the satisfaction of the Registrar that
- (a) any person registered under this Act as authorized to solemnize marriage
    - (i) has ceased to or does not possess the qualifications entitling that person to be so registered,
    - (ii) has contravened this Act or the regulations, or
    - (iii) has made a material misstatement in that person's application for registration; or
  - (b) it is contrary to the public interest for any person to continue to be registered under this Act as authorized to solemnize marriage,

the Registrar may, with or without any hearing, cause an entry to be made in the register kept by the Registrar under this Act cancelling the registration of that person and shall cause public notice of the cancellation to be published in one issue of the Royal Gazette and, if the Registrar thinks fit, in one or more issues of any newspaper published in the Province, and upon publication of the notice in the Royal Gazette the authority of that person to solemnize marriage in conformity with this Act shall cease.

(2) The Registrar shall cause notice of the cancellation to be mailed forthwith by registered mail to the person whose registration is cancelled, addressed to that person's last known address in the Province.

(3) It is the duty of the governing authority having jurisdiction in this Province of every religious body whose ministers, clerics or religious representatives are registered under this Act as authorized to solemnize marriage to notify the Registrar from time to time of the name of every person so registered who has died, has ceased to reside in the Province or has in any other way ceased to possess the qualifications entitling that person to be so registered. R.S., c. 436, s. 7; 1996, c. 23, s. 43; 2017, c. 15, s. 7; 2018, c. 43, s. 19.

8 *repealed 2018, c. 43, s. 20.*

**Publication of list of registered persons**

9 (1) The Registrar shall cause a list of the names of all persons registered under this Act as authorized to solemnize marriage to be published at least once each year in the Royal Gazette and a copy of the list to be furnished to each issuer of marriage licenses.

(2) The list shall be prepared in alphabetical order of surnames and shall indicate the religious body to which each person whose name appears thereon belongs.

(3) Supplementary lists may be published and distributed from time to time as directed by the Registrar. R.S., c. 436, s. 9.

#### SAVING AS TO CERTAIN MARRIAGES

##### Validation of certain marriages

10 (1) Notwithstanding any lack of legal authority to solemnize marriage in the minister, cleric or religious representative by whom the marriage was solemnized, the solemnization of every marriage solemnized in the Province before the first day of August, 1937, in good faith, before a minister, cleric or religious representative, between persons neither of whom was at the time under any legal disqualification to contract the marriage and who thereafter lived together and cohabited as spouses, shall for all purposes be deemed to be and to have been from the date of the solemnization lawful and valid, but nothing in this Section extends to make valid the solemnization of any marriage that has before the first day of August, 1937, been declared invalid or dissolved by any court or where the parties to the marriage, or either of them, subsequently contracted valid marriage according to law.

(2) The issue of every marriage, the solemnization of which is validated by this Section, shall for all purposes be deemed to be and to have been legitimate from the time of birth, but nothing in this subsection affects any right, title or interest in or to property where the right, title or interest has vested in any person prior to the first day of August, 1937.

(3) No marriage solemnized in the Province before, on or after the thirteenth day of April, 1940, by a person registered under this Act is invalid by reason of such person not having had at the time of registration the qualifications entitling such person to be registered. R.S., c. 436, s. 10; 1996, c. 23, s. 43; 2017, c. 15, s. 8.

##### Validity of certain marriages

11 (1) Notwithstanding this or any other Act, no marriage solemnized in the Province before, on or after the eleventh day of April, 1956, by a minister, cleric or religious representative in good faith shall be invalid by reason only that the person performing the ceremony was not registered, as authorized to solemnize marriage, under this Act or some other Act of the Province relating to the solemnization of marriage or that that person's registration had been cancelled if the person performing the ceremony had, at the time of performing it, the qualifications entitling that person to be registered.

(2) Nothing in this Section makes valid any marriage that has before the eleventh day of April, 1956, been declared to be invalid or dissolved by any court or where subsequent to the marriage and before the eleventh day of April, 1956, the parties to the marriage, or either of them, contracted another valid marriage. R.S., c. 436, s. 11; 1996, c. 23, s. 43; 2017, c. 15, s. 9.

12 and 13 *repealed 2017, c. 15, s. 10.*



## ISSUERS OF MARRIAGE LICENSES

**Deputy issuers of marriage licenses**

**14 (1)** The Registrar may appoint deputy issuers of marriage ~~licenses~~ [licenses].

**(2)** Notwithstanding subsection (1), the Governor in Council may from time to time appoint throughout the Province persons to be deputy issuers of marriage licenses, whose offices shall be so situated that no part of the Province shall be at an inconvenient distance from one of them, and due publicity shall be given by the Governor in Council of such appointments. R.S., c. 436, s. 14; 2010, c. 74, s. 1.

**Conditions for valid marriage in Province**

**15** No marriage in the Province is valid unless

(a) it is solemnized by a person authorized by this Act to solemnize marriage; and

(b) a license has been obtained for the solemnization of the marriage. R.S., c. 436, s. 15.

## FORM OF LICENSES

**Marriage licenses and certificates**

**16 (1)** Marriage licenses shall be in the form prescribed by the Minister.

**(2)** A certificate in blank that the marriage authorized by any license was duly solemnized shall be indorsed upon every license and another certificate to the like effect attached thereto by way of counterfoil, or in such other manner as to admit of its being easily detached therefrom, and such certificates must each be in the form prescribed by the Minister.

**(3)** The Registrar may from time to time sign licenses in blank, which shall then be furnished to the issuers in such numbers as may be required, and every license signed in blank as aforesaid remains valid notwithstanding that the Registrar signing the same has ceased to hold office before it is issued by an issuer to a person applying therefor.

**(4)** Every issuer shall give to the Registrar a receipt for all blank licenses received by the issuer and shall account to the Registrar for all such licenses.

**(5)** Marriage licenses in the form in use before the seventeenth day of May, 1919, and signed and sealed in blank before that day by the Lieutenant Governor of the Province or any predecessors in office, remain valid, and may be issued as before that day, anything in this Act to the contrary notwithstanding.

(6) The signature of the Registrar on licenses may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form. R.S., c. 436, s. 16; 2017, c. 15, s. 11.

#### APPLICATION FOR LICENSES

##### **Affidavit, certified copies and identification**

17 (1) When applying for a license, each party to the intended marriage shall make an affidavit containing the following particulars:

(a) the full name, place of residence, occupation and marital status—never married, widowed or divorced—of the person making the affidavit;

(b) that the person making the affidavit believes there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(c) the age of the person making the affidavit;

(d) where the affidavit indicates that the person making the affidavit is divorced, there shall be attached to and form part of the affidavit a true copy of the certificate of divorce dissolving the last marriage of the person or such documentary evidence of dissolution as the Registrar considers satisfactory; and

(e) where the affidavit indicates that the person making the affidavit is widowed there shall be attached and form part of the affidavit a true copy of the former spouse's death certificate or other documentary evidence of death unless there exists exceptional or urgent circumstances, sufficient in the issuer's discretion, to justify waiving this requirement.

(2) Where a party to the intended marriage is under the age of nineteen years,

(a) the affidavit made by the party must state the facts necessary to enable the issuer to determine whether the consent required under Section 20 has been duly given or whether such consent is necessary; and

(b) the written consent required under Section 20 must be annexed to the affidavit made by the party.

(3) An affidavit must be in the form prescribed by the Minister and may be made before the issuer to whom application is made or before a notary public, a justice of the peace or a commissioner for taking affidavits.

(4) In addition to the affidavits required by this Section, the applicants shall produce to the issuer or provide

(a) certified copies of

- (i) a valid photo driver's licence,
  - (ii) a birth certificate,
  - (iii) a baptismal certificate,
  - (iv) a passport, or
  - (v) a Canadian citizenship card; and
- (b) one piece of signed identification,

for each party to the intended marriage unless there exists exceptional or urgent circumstances, sufficient in the issuer's discretion, to justify waiving these requirements. R.S., c. 436, s. 17; 1999, c. 4, s. 31; 2017, c. 15, s. 12.

### Fee

**18** The fee payable upon the issue of a marriage license is such amount as is determined by the Governor in Council by regulation. R.S., c. 436, s. 18.

### Issue of license

**19 (1)** Upon the applicants paying the fee and meeting the requirements described in Section 17, the issuer shall fill up one of the blank forms of license with

- (a) the names, residences and additions of the parties to the intended marriage; and
- (b) the exact date on which the license is issued,

and shall subscribe the same with the issuer's own name, and the license is then deemed to be issued.

**(2)** *repealed 2013, c. 28, s. 1.*

**(3)** No license shall be used for any marriage other than for the particular marriage specified therein. R.S., c. 436, s. 19; 1999, c. 4, s. 32; 2013, c. 28, s. 1; 2017, c. 15, s. 13.

### Consent required where minor

**20 (1)** Except as herein provided, where either party to an intended marriage is under the age of nineteen years and is not widowed or divorced, the issuer shall not issue a license unless there is filed with the issuer the written consent of

- (a) both parents of the party, if living, unless
  - (i) the custody of the party has been granted to one of the parents or to another person or the conditions in clause (d) exist,
  - (ii) one of the parents has been found by a competent court to be mentally incompetent or is a patient in an institution for the treatment of mental illness,

(iii) one of the parents is living separate and apart from the other parent and the party and is not maintaining them or contributing to their support, or

(iv) the father of the party is not stated on the party's registration of birth;

(b) the surviving parent where one parent is dead, the parent to whom custody of the party has been granted, the parent other than the one referred to in subclause (ii) or (iii) of clause (a) or the mother where the ~~the~~ father of the party is not stated on the party's registration of birth unless

(i) such parent has been found by a competent court to be mentally incompetent or is a patient in an institution for the treatment of mental illness, or

(ii) the custody of the party has been granted to another person or the conditions in clause (d) exist;

(c) the guardian of the party or the person having custody of the party under an order of a court of competent jurisdiction where both parents are dead or prevented by clause (a) or (b) from giving consent or where the surviving parent is so prevented; or

(d) an agency as defined in the *Children and Family Services Act* if the party is, under that Act, committed to the care and custody of the agency,

and the issuer is satisfied of the genuineness of the consent and the authority to give consent of the person giving it.

(2) Where the issuer is satisfied that

(a) both parents of the party are dead, absent from the Province or prevented under subsection (1) from giving consent;

(b) no guardian of the party has been appointed and no person has been granted custody of the party; and

(c) the party is not committed to the care and custody of an agency as defined in the *Children and Family Services Act*,

the issuer may issue the license without a written consent.

(3) Where an issuer has refused to issue a license on the ground that a necessary consent has not been given, the party in respect of whom the license is sought may, without the intervention of a guardian *ad litem*, apply to a judge of the Supreme Court of Nova Scotia or to a judge of the Family Court for an order that the license be issued.

(4) The judge may hear the application in a summary way and if the judge is satisfied that

(a) consent to the proposed marriage is not required; or

(b) the person whose consent is required has given written consent to the proposed marriage,

the judge may order the issue of the license applied for, and upon receipt of a certified copy of the order the issuer shall issue the license.

(5) Where a person whose consent is required under subsection (1) is unable to give consent because of illness or refuses to give consent or it is uncertain whose consent is required, the party in respect of whom the license or permit is sought may, without the intervention of a guardian *ad litem*, apply to a judge of the Supreme Court of Nova Scotia or to a judge of the Family Court for an order dispensing with consent.

(6) The judge may hear the application in a summary manner and if the judge is of the opinion that the proposed marriage is a proper one and is satisfied that

(a) the person whose consent is required is unable because of illness to give consent;

(b) the consent is unreasonably or arbitrarily refused;

(c) the person whose consent is required is not interested in the maintenance or well-being of the party in respect of whom the license is sought; or

(d) it is uncertain whose consent is required,

the judge may order that the consent be dispensed with.

(7) When a certified copy of the order is filed with the issuer, the issuer may issue the license. R.S., c. 436, s. 20; 2017, c. 15, s. 14.

### **Marriage under age sixteen prohibited**

21 (1) No marriage of any person under the age of sixteen years shall be solemnized nor shall any license therefor be issued or authorized to be issued.

(2) and (3) *repealed 2017, c. 15, s. 15.*

R.S., c. 436, s. 21; revision corrected 2002; 2017, c. 15, s. 15.

## REQUIREMENTS AT SOLEMNIZATION

### **Required notice and witnesses**

22 (1) No person shall solemnize any marriage unless that person has, not less than three days before such solemnization, received notice of the names, places of residence, occupation, age and marital status of the parties to the intended marriage, except upon the production of evidence satisfactory to that person that there exist exceptional and urgent circumstances, sufficient in that person's discretion to justify the earlier solemnization of such marriage.

(2) A marriage for which a marriage license has been issued may not be solemnized if the marriage license has expired.

(3) Every marriage shall be solemnized in the presence of at least two witnesses, each of whom shall be at least sixteen years of age. R.S., c. 436, s. 22; 2017, c. 15, s. 16.

#### **Solemnization of marriage by a judge or justice**

**23** (1) A judge or a justice of the peace designated by the Minister of Justice may solemnize a marriage for which a marriage license has been issued.

(2) No particular form of ceremony is required in a marriage that is solemnized by a judge or a justice of the peace designated by the Minister of Justice except that in some part of the ceremony, in the presence of the judge or justice and witnesses, each of the parties shall declare

I do solemnly declare that I do not know of any lawful impediment why I, *A.B.*, may not be joined in matrimony to *C.D.*

and each of the parties shall say to the other

I call upon all persons present to witness that I, *A.B.*, do take thee, *C.D.*, to be my lawful wedded (wife *or* husband *or* spouse)

after which the judge or justice shall say

By virtue of the authority vested in me by the *Marriage Act*, I hereby pronounce you, *A.B.* and *C.D.*, to be (husband and wife *or* lawfully married partners *or* lawfully married spouses *or* legally wed *or* husbands of one another *or* wives of one another)

provided that, if the judge or justice adds other words to the ceremony, no expression shall be used in the ceremony that means or implies that the marriage is not to the exclusion of all other spouses while both of the parties are alive.

(3) Where a judge or justice of the peace designated by the Minister of Justice solemnizes a marriage, the judge or justice shall charge a fee in the circumstances and in the amount determined by regulation.

(4) If the parties to a marriage solemnized by a judge or a justice of the peace designated by the Minister of Justice desire a religious ceremony in addition thereto, a certificate of the judge or justice that the judge or justice has solemnized the marriage is sufficient authority to a minister, cleric or religious representative to perform a religious ceremony.

(5) Section 25 of this Act and Sections 15 and 16 of the *Vital Statistics Act* do not apply to a religious ceremony of marriage of persons that is performed after their marriage has been solemnized by a judge or a justice of the peace

designated by the Minister of Justice pursuant to this Section. 1996, c. 23, s. 42; 2017, c. 15, s. 17.

**Duty of person who solemnizes marriage**

**24 (1)** Immediately after the solemnization of any marriage, the person solemnizing the same shall comply with the following requirements:

(a) fill the blanks in the form of certificate indorsed upon the license with

(i) the names of the parties to the marriage and the residence and additions of the parties, respectively,

(ii) the date at which the marriage was solemnized,

(iii) the place of solemnization,

(iv) the religious body or denomination according to the rites of which the marriage was solemnized, if the marriage was solemnized by a minister, cleric or religious representative,

(v) the names and addresses of two witnesses to the marriage,

and subscribe the same with the name of the person solemnizing the marriage and, if the marriage was solemnized by a minister, cleric or religious representative, the religious denomination to which that person belongs;

(b) fill up the blanks in the form of certificate attached to the license with the particulars in this Section mentioned, and also with the date and place of issue of the license under which the marriage was solemnized, and subscribe the same with the name of the person solemnizing the marriage and, if the marriage was solemnized by a minister, cleric or religious representative, the religious denomination to which that person belongs, and when so filled up and signed detach the certificate from the license and give it to one of the parties to the marriage; and

(c) fill up a form, to be known as the marriage register, with the following particulars:

(i) the date of the marriage,

(ii) the place thereof,

(iii) the names, ages, marital statuses, religious denominations, occupations, places of residence and places of birth of the parties to the marriage, and

(iv) the names of the parents of such parties,

and, when so filled up, signed by the two witnesses to the marriage, with their addresses, by the parties to the marriage and by the person

who solemnized the marriage and, if that person is a minister, cleric or religious representative, stating the religious denomination to which that person belongs.

(2) Nothing in this Section shall be construed to interfere with the keeping by any minister, cleric or religious representative of any marriage register that the minister, cleric or religious representative is otherwise required to keep or thinks proper to keep.

(3) The marriage certificate and marriage register must each be in the form prescribed by the Minister. R.S., c. 436, s. 24; 1996, c. 23, s. 43; 2017, c. 15, s. 18.

#### **Return of documents to issuer**

25 A person who solemnizes a marriage shall within forty-eight hours thereafter return to the issuer, by whom the license for the marriage was issued, the marriage register in respect of the marriage, filled up with the particulars and signed as required by Section 24, together with any certificate issued under clause (a) of subsection (1) of Section 24 and the license for the marriage with the certificate indorsed thereon completed with the particulars and signed as required by Section 24. R.S., c. 436, s. 25.

#### **RETURN BY ISSUERS**

#### **Record of issuer**

26 Every issuer shall keep a record in which the issuer shall enter

- (a) the date of every license issued by the issuer;
- (b) the parties to the intended marriage;
- (c) the date at which the license was returned to the issuer;
- (d) the particulars of the marriage as set out in the marriage register returned to the issuer. R.S., c. 436, s. 26.

#### **Duty of issuer to ascertain marriages entered**

27 Every issuer shall, so far as is within the issuer's power, ascertain the several marriages occurring in the issuer's vicinity and procure the person solemnizing them to fill up marriage registers for such marriages and return the same to such issuer. R.S., c. 436, s. 27.

#### **Returns by issuer**

28 Every issuer shall on Saturday of every week return to the Registrar

- (a) all the licenses issued by the issuer and returned to the issuer, with the certificate of marriage indorsed thereon, during that week;
- (b) all affidavits considered by the issuer on the issue of licenses during that week;



- (c) all orders dispensing with consent filed with the issuer during that week;
- (d) all marriage registers returned to the issuer; and
- (e) an exact list of the documents returned, signed by the issuer,

and shall with the return remit to the Registrar the full amount of fees on all licenses issued by the issuer, retaining, in respect of each license issued by the issuer for the issuer's own fees thereon, such amount as is determined by the Governor in Council by regulation. R.S., c. 436, s. 28.

#### FORMS

**29** *repealed 2017, c. 15, c. 19.*

#### **Preparation and distribution of blank forms**

**30** The Registrar shall prepare blank forms of the affidavit, marriage register and marriage certificates prescribed by the Minister and distribute the same to the issuers, who shall furnish blank forms of marriage registers and marriage certificates to ministers, clerics and religious representatives on application. R.S., c. 436, s. 30; 1996, c. 23, s. 43; 2017, c. 15, s. 20.

#### GENERAL PROVISIONS

#### **Mark of person unable to write**

**31** Where any person, whose signature is required by any of the provisions of this Act, is unable to write, that person's mark, made in the presence of and attested by the issuer or other witness, is sufficient. R.S., c. 436, s. 31; revision corrected 1997.

#### **Error in register**

**32** If any error is found to have been committed in the entry of any marriage in any marriage register, the person discovering the same shall forthwith give information thereof to the nearest issuer and such issuer is hereby authorized and required to investigate the circumstances of the case and, if satisfied that an error has been committed in any such entry, it is lawful for such person to correct the erroneous entry according to the truth of the case by an entry on the margin of the marriage register, without any alteration of the original entry. R.S., c. 436, s. 32.

#### **Regulations**

- 33** (1) The Governor in Council may make regulations
- (a) respecting the determination by the Registrar of whether a religious body is sufficiently well established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, to warrant the registration of its ministers, clerics or religious representatives as authorized to solemnize marriage;

- (aa) respecting the cancellation and suspension of any person's registration as authorized to solemnize marriage, including
  - (i) authorizing the Registrar to suspend any person's registration as authorized to solemnize marriage and prescribing the circumstances under which any person's registration may be suspended, and
  - (ii) authorizing the Registrar to cancel any person's registration as authorized to solemnize marriage in circumstances prescribed by the regulations and prescribing such circumstances;
- (ab) to determine the fee to be paid for a marriage license;
- (b) to determine the amount to be retained by an issuer of a marriage license out of the fee to be collected by the issuer;
- (c) to determine the fee to be charged by a judge of the Supreme Court of Nova Scotia or the Family Court for solemnizing a marriage in the judge's chambers or office or in a courtroom;
- (ca) respecting the expiration of marriage licenses;
- (d) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 436, s. 33; 2017, c. 15, s. 21; 2018, c. 43, s. 21.

## PENALTIES

### Penalty for solemnizing under improper license

**34** Every person who solemnizes a marriage, and every person who counsels or procures any person to solemnize any marriage, under a license which has not been filled up and subscribed by an issuer in the manner prescribed by this Act, is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 34.

### Penalty for alteration of license after issue

**35** Every person who alters or assists in altering any marriage license after the same has been issued is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 35.

### Penalty for solemnizing under wrong license

**36** Every person who solemnizes, or assists in solemnizing, any marriage, under a marriage license issued for another marriage, is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 36.

**Penalty for solemnization by unauthorized person**

**37** A person who solemnizes a marriage and who was not at the time of the marriage authorized by this Act to solemnize marriage is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 37.

**Penalty for failure to return documents to issuer**

**38 (1)** Every person who does not within forty-eight hours after the solemnization of a marriage by that person, or, in case of that person's absence from home or illness, then within ten days after the return or recovery, return to the issuer by whom the license was issued the marriage register with the particulars respecting the marriage by this Act required with the license thereof and the certificate on the license indorsed and filled up with the particulars by this Act required is liable to a penalty of four dollars and to a further penalty of ten cents for each day during which the neglect continues.

**(2)** Penalties imposed under subsection (1) are for the use of the issuer to whom the return should have been made. R.S., c. 436, s. 38.

**Penalty for neglect of duty by issuer**

**39** Every issuer who

(a) parts with or allows to go out of the issuer's possession any marriage license except as in this Act is provided;

(b) loses or injures any license, marriage register or other document in the issuer's possession under this Act;

(c) does not within the periods prescribed by this Act make any of the several returns which by this Act the issuer is required to make; or

(d) neglects or refuses to make any entry or perform any duty which the issuer is by this Act required to make or do,

is for each offence liable to a penalty of four dollars and, in case of a conviction for not making a return, to a further penalty of ten cents for every day during which any such return is delayed after the time at which the same should be made. R.S., c. 436, s. 39.

**Penalty for false return by issuer**

**40** An issuer who knowingly makes a false return of licenses sold by the issuer is liable for each false return to a penalty not exceeding one hundred dollars. R.S., c. 436, s. 40.

**Penalty for falsifying marriage register**

**41** Every person who, knowing the same to be false, makes or causes to be made, for the purpose of being inserted in any marriage register, any false statement touching any of the particulars in this Act required to be stated therein is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 41.

**Sending false statement of marriage for publication**

42 Every person who, knowing the same to be false, sends to any newspaper publisher or other person, for publication in any newspaper in this Province, a false statement of the marriage of any person, is liable to a penalty of one hundred dollars. R.S., c. 436, s. 42.

**Disposition of penalty**

43 Every penalty by this Act imposed, that is not stated to be for the use of an issuer, shall if recovered be applied, one half to the Province and one half to the city, town or municipality in which the offence, in respect of which the prosecution is instituted, took place. R.S., c. 436, s. 43.

## SAVINGS AS TO FORMER MARRIAGES

**Marriages before July 5, 1906**

44 (1) Every marriage solemnized in this Province in good faith before any minister, cleric or religious representative of any religious denomination on or before the fourth day of July, 1906, in the presence of one or more witnesses, and the parties to which have cohabited together as spouses, is deemed and is hereby made valid, notwithstanding any want of legal authority in such minister, cleric or religious representative to solemnize such marriage and notwithstanding any want of license or of publication of banns under which such marriage was had or any legal objection thereto, provided that nothing herein contained has the effect of confirming or rendering valid any marriage between parties who were not legally capable of entering into the marriage contract by reason of consanguinity, affinity, prior marriage or otherwise.

(2) The issue of all marriages hereby confirmed or rendered valid are declared to be and are made legitimate to all intents and purposes, and the rights of parties claiming under any such issue are the same to all intents and purposes as if the marriage hereby confirmed had been valid and legal at the time of the solemnization thereof. R.S., c. 436, s. 44; 1996, c. 23, s. 43; revision corrected 1997; 2017, c. 15, s. 22.

**Declaration of invalidity of marriage**

45 (1) Where a form of marriage has been or is gone through between persons, either of whom is under the age of eighteen years, without the consent required by Section 20, the Supreme Court, notwithstanding that a license or permit was granted or that publication of banns was made, and that the ceremony was performed by a person authorized by law to solemnize marriage, has jurisdiction and power in an action brought by either party, who was at the time of the ceremony under the age of eighteen years, to declare and adjudge that a valid marriage was not effected or entered into, provided that such persons have not after the ceremony cohabited and lived together as spouses and that the action is brought before the person bringing it has attained the age of nineteen years.

(2) Nothing in this Section applies where after the ceremony there has occurred that which if a valid marriage had taken place would have been a consummation thereof.

(3) The Supreme Court is not bound to grant relief in cases provided for in this Section where carnal intercourse has taken place between the parties before the ceremony. R.S., c. 436, s. 45; revision corrected 1997; 2017, s. 15, s. 23.

**Requirement for trial**

**46** (1) No declaration or adjudication that a valid marriage was not effected or entered into shall in any case be made or pronounced upon consent of parties, admissions or in default of appearance or of pleading or otherwise than after a trial.

(2) At every such trial the evidence shall be taken *viva voce* in open court, but nothing in this subsection prevents the use of depositions of witnesses residing out of the Province or of witnesses examined *de bene esse* where according to practice of the Court such depositions may be read in evidence.

(3) The Court may of its own motion require both or either of the parties to be examined before the Court touching the matters in question in the action. R.S., c. 436, s. 46.

Schedule *repealed 2017, c. 15, s. 24.*

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