

1958/46

THE PROXY MARRIAGE REGULATIONS 1958

COBHAM, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 31st day of March 1958

Present:

THE HON. C. F. SKINNER, M.C., PRESIDING IN COUNCIL

PURSUANT to the Marriage Act 1955, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Proxy Marriage Regulations 1958.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. In these regulations, unless the context otherwise requires,—

“The Act” means the Marriage Act 1955:

“Commonwealth country” means a country that is a member of the British Commonwealth of Nations; and includes every territory for whose international relations the Government of that country is responsible; and also includes the Republic of Ireland as if that country were a member of the British Commonwealth of Nations:

“Commonwealth representative” means an Ambassador, High Commissioner, Minister, Chargé d’Affaires, Consular Officer, Trade Commissioner, or Tourist Commissioner of a Commonwealth country (including New Zealand); and includes any person lawfully acting for any such officer and also includes any diplomatic secretary on the staff of any such Ambassador, High Commissioner, Minister, or Chargé d’Affaires.

3. These regulations apply to every marriage for which the authority of a Magistrate is required under section 34 of the Act.

4. Where it is intended to solemnise any marriage to which these regulations apply, the party to the intended marriage resident in New Zealand shall give notice under section 23 of the Act accompanied by the order of the Magistrate under section 34 of the Act authorising the marriage.

5. (1) No marriage to which these regulations apply shall be solemnised until there is produced to the officiating minister or the Registrar, as the case may be, a document containing—

- (a) The assent of the absent party to the marriage;
- (b) An appointment by him of some person to act as proxy when the marriage is solemnised; and
- (c) A declaration by him that he does not know of any lawful impediment to the marriage.

(2) The document produced in accordance with subclause (1) of this regulation shall be annexed to the copy of the particulars of the marriage which the officiating minister or the Registrar, as the case may be, is required under section 36 of the Act to forward to the Registrar-General.

(3) The document shall be in the form in the Schedule to these regulations or to the like effect, and shall be signed by the absent party and witnessed by a notary public, or a Commonwealth representative, or a barrister or solicitor of any court of a Commonwealth country, or any commissioned officer of any armed force with which the absent party is serving.

(4) If the person appointed as proxy is unable or unwilling to act or if the appointment is revoked, any other person may be appointed as proxy by a subsequent document which shall be signed and witnessed as provided by subclause (3) hereof.

(5) Any document under this regulation purporting to have subscribed thereon the signature of any person authorised by this regulation to witness the signature of the person signing the document shall be admitted in evidence without proof of the signature being the signature of that person or of the official character of that person.

6. Every assent given and every appointment made under these regulations shall have effect only until the expiration of three months after the date on which it is signed or until the date when notice of revocation in writing signed by the absent party is received by the person appointed proxy, whichever date is the sooner:

Provided that the assent given by the absent party to the marriage shall cease to have effect if that party withdraws his consent to the marriage (in any manner whatsoever) and the other party to the marriage knows the consent has been withdrawn.

7. Where a marriage to which these regulations apply is solemnised by a Registrar, the present party to the marriage and the person appointed proxy for the absent party shall attend before the Registrar and in the presence of the Registrar and of two witnesses shall respectively make the following statement and declarations:

The proxy shall first say and declare—

“I produce the assent of A.B. to his (or her) marriage to C.D. and the appointment of a proxy to act for him (or her) at the solemnisation of the marriage. I solemnly declare firstly, that I am X.Y., the person named as proxy in the appointment I have produced, secondly, that I have not received any notice of revocation of either the assent or the appointment, and thirdly, that I do not know of any lawful impediment to the marriage between A.B. and C.D.”

The present party shall then declare:

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

The proxy and the present party shall then respectively make the following statements to each other:

The proxy shall say:

“On behalf of A.B. I call upon these persons here present to witness that A.B. takes you, C.D., to be his (or her) lawful wedded wife (or husband).”

The present party shall then say:

“I call upon these persons here present to witness that I, C.D., take A.B. to be my lawful wedded husband (or wife).”

8. Every entry in the register book made pursuant to section 36 of the Act and every copy so made of any such entry shall be signed for the absent party to the marriage by the proxy in the following manner:

..... [Full name of absent party] by his (or her) proxy—
 [Signature of proxy].

Reg. 5 (3)

SCHEDULE

FORM OF ASSENT, APPOINTMENT, AND DECLARATION

I, A.B., of [Address, occupation], hereby assent to the marriage of C.D., of [Address, occupation], and myself. I appoint X.Y., of [Address, occupation], to act as my proxy when the marriage is solemnised and I declare that I do not know of any lawful impediment to the marriage.

Signed by the said A.B. on the day of 19....., in the presence of—

..... [Witness].

..... [Designation].

T. J. SHERRARD,
 Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide machinery enabling the solemnisation of marriages by proxy as authorised by section 34 of the Marriage Act 1955.

The regulations prohibit the solemnisation of any marriage by proxy unless a document containing the assent of the absent party, the appointment of a proxy, and a declaration by the absent party that he knows of no impediment to the marriage is produced to the officiating minister or the Registrar.

Provision is made for the withdrawal of consent by the absent party.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 2 April 1958.

These regulations are administered in the Department of Justice.