



## ANALYSIS

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1976, No. 8

**An Act to amend the Marriage Act 1955**

[27 August 1976]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Marriage Amendment Act 1976, and shall be read together with and deemed part of the Marriage Act 1955 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1977.

**2. Marriage celebrant**—(1) The principal Act is hereby amended by omitting, wherever it appears, the expression, “officiating minister”, and substituting in each case the expression “marriage celebrant”.

(2) Every person who was, immediately before the commencement of this Act, an officiating minister is hereby declared to be a marriage celebrant.

**3. Approved organisations**—(1) The principal Act is hereby further amended by repealing sections 9, 10, and 11, and substituting the following sections:

**“9. Approval of organisations**—(1) Any organisation may apply to the Registrar-General in the manner hereinafter provided for approval as an organisation which may, pursuant to section 10 of this Act, nominate persons to solemnise marriages, (therein and in this section referred to as an approved organisation).

“(2) Every such application shall be accompanied by a statement signed by the chief office bearer and 10 members of the organisation, all being of or over the age of 18 years, each of whom shall append his age and address, setting out:

“(a) The objects and beliefs of the organisation; and

“(b) The number or, if this cannot accurately be ascertained, the approximate number of members of the organisation of or over the age of 18 years:

“Provided that in the case of any organisation the constitution or tenets of which do not recognise any chief office bearer an application signed as aforesaid by 10 members only shall be sufficient.

“(3) The signatures of the signatories to every application shall be attested by some other person who shall, by statutory declaration attached to the statement, verify the signatures as the genuine signatures of the persons whose signatures they purport to be.

“(4) The Registrar-General shall forward every application to the Minister of Justice together with either a favourable or an unfavourable recommendation.

“(5) The Registrar-General shall not make a favourable recommendation on any application unless he is satisfied that the principal object or one of the principal objects of the organisation is to uphold or promote religious beliefs or philosophical or humanitarian convictions.

“(6) If the Minister is satisfied that the principal object or one of the principal objects of the organisation is to uphold or promote beliefs or convictions as aforesaid, he may, by notice in the *Gazette*, declare the organisation an approved organisation.

“(7) If at any time the Minister becomes satisfied that, in the light of information not available to him at the time he approved an organisation or by virtue of a change in the circumstances of an organisation, the organisation should not continue to be an approved organisation, or if for a continuous

period of at least 12 months no person nominated by an approved organisation has his name on the list, the Minister may, by notice in the *Gazette*, withdraw his approval of the organisation; and from the date of the publication of the notice the organisation shall cease to be an approved organisation.

“(8) Every religious body not enumerated in the First Schedule to this Act of which a member was an officiating minister immediately before the commencement of the Marriage Amendment Act 1976 is hereby declared to be an approved organisation.

**“10. Marriage celebrants from approved organisations—**

(1) The name of every adult member of an approved organisation nominated to be a marriage celebrant shall be sent to the Registrar-General together with a certificate from the organisation declaring that it wishes the member to be a marriage celebrant.

“(2) The certificate shall be signed and attested in the manner specified in section 9 of this Act for applications for approval.

“(3) If the Registrar-General is satisfied that any person so nominated is of good character and otherwise qualified to act as a marriage celebrant, and that the provisions of this Act in respect of the submission of his name have been complied with, he shall enter the name of the person on the list.

“(4) If the Registrar-General fails or refuses to enter in the list the name of any person nominated pursuant to this section he shall, if required to do so by any signatory to the certificate accompanying the person's nomination, refer the nomination to the Minister of Justice, who may direct the Registrar-General to enter the person's name in the list, and in that case the Registrar-General shall forthwith enter the person's name in the list.

**“11. Justices of the Peace, etc., may be marriage celebrants—**(1) Where the Registrar-General is satisfied that for geographical, administrative, or other reasons it would be convenient for the residents of any locality for a Justice of the Peace or other person of good character residing in that locality, who wishes to be a marriage celebrant, to be able to solemnise marriages, the Registrar-General may enter that person's name in the list.

“(2) Notwithstanding Part VI of this Act, a marriage celebrant whose name has been entered in the list pursuant to this section shall not have custody of a register book, and shall not solemnise any intended marriage without having obtained from a Registrar in respect of that intended marriage such part of the register as he may make available, which shall be returned to the Registrar within 10 days after the date of the solemnisation of the marriage.”

(2) Section 35 (1) of the principal Act is hereby amended by omitting the word “Every”, and substituting the words “Subject to section 11 (2) of this Act, every”.

(3) Section 36 (1) of the principal Act is hereby amended by inserting, after the word “book”, the words “or, in the case of a marriage celebrant whose name has been entered in the list pursuant to section 11 of this Act, the part of the register obtained by him from a Registrar in respect of that marriage,”.

(4) Section 36 (3) of the principal Act is hereby amended by inserting, after the word “book”, the words “or any part of the register,”.

**4. Removal of names from list**—The principal Act is hereby further amended by repealing section 13, and substituting the following section:

“13. (1) Where the Registrar-General is satisfied that—

“(a) A marriage celebrant has died; or

“(b) A marriage celebrant no longer wishes to be a marriage celebrant; or

“(c) The organisation or religious body which submitted the name of a marriage celebrant no longer wishes him to be a marriage celebrant; or

“(d) The organisation which submitted the name of a marriage celebrant is no longer an approved organisation,—

he shall remove the name of the marriage celebrant from the list and shall publish in the *Gazette* a correction to that effect.

“(2) If the Minister of Justice is satisfied—

“(a) That a marriage celebrant has wilfully failed or persistently neglected to register the particulars of any marriages or to forward or return to a Registrar or to the Registrar-General any documents required so to be forwarded or returned by this Act; or

“(b) That a marriage celebrant whose name has been entered in the list pursuant to section 11 of this Act should not continue to be a marriage celebrant—he may direct the Registrar-General to remove the name of that marriage celebrant from the list, and the Registrar-General shall remove the name from the list and shall publish in the *Gazette* a correction to that effect.”

**5. Issue of marriage licence—**(1) Section 24 (1) of the principal Act is hereby amended by inserting, after the word “therein”, the words “or at either of two places described therein”.

(2) Section 32 (1) of the principal Act is hereby amended by omitting the second proviso, and substituting the following proviso:

“Provided also that every such marriage shall be solemnised with open doors at a place stated in the marriage licence.”

**6. Place and form of marriage before marriage celebrant—**The principal Act is hereby further amended by repealing section 31, and substituting the following section:

“31. (1) Every marriage solemnised by a marriage celebrant shall be solemnised at a place described in the marriage licence issued in respect of that marriage.

“(2) Subject to subsection (3) of this section, every such marriage shall take place between the persons named in the licence according to such form and ceremony as they may think fit to adopt, and shall be solemnised with open doors in the presence of a marriage celebrant and 2 or more witnesses at any time between 6 a.m. and 10 p.m.

“(3) During the solemnisation of every such marriage each party to it shall say to the other:

I call on the people present here to witness that I, A.B., take you C.D., to be my legal wife (*or* husband), or words to similar effect.”

**7. Marriages before Registrar—**(1) The principal Act is hereby further amended by repealing section 33, and substituting the following section:

“33. (1) After compliance with the provisions of this Act any marriage may be solemnised with open doors at the office of and before the Registrar and in the presence of 2 or more witnesses at any time between 6 a.m. and 10 p.m. on any day (not being a Sunday, Good Friday, Anzac Day, or Christmas Day).

“(2) During the solemnisation of every such marriage each party to it shall declare:

I solemnly declare that I do not know of any impediment to this marriage between me A.B. and C.D.,  
And shall say to the other party:

I call on the people present here to witness that I, A.B., take you, C.D., to be my legal wife (*or* husband),  
or words to similar effect.”

(2) Section 28 of the principal Act is hereby amended by adding the following proviso:

“Provided that no Registrar shall be required to solemnise a marriage at a time or on a day when his office is not ordinarily open for the transaction of public business under this Act unless he has agreed to do so.”

**8. Registrar-General may solemnise marriage**—The principal Act is hereby further amended by inserting, after section 33, the following section:

“33A. With his prior consent, notice of an intended marriage may be given to the Registrar-General or Deputy Registrar-General, and the marriage may be solemnised before him, in the same manner and subject to the same requirements and conditions as if he were a Registrar.”

**9. Offences generally**—The principal Act is hereby further amended by repealing section 61.

**10. Regulations**—The principal Act is hereby further amended by repealing sections 64 and 65, and substituting the following section:

“64. (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

“(a) Prescribing fees for the doing of any act under this Act:

“(b) Prescribing forms to be used for the purposes of this Act and the matters to be specified in such forms:

“(c) Providing for such other matters as are contemplated by or necessary to give full effect to the provisions of this Act and its due administration.

“(2) Where the Registrar-General or any Registrar is empowered by this Act to do any act for which a fee is payable, he may refuse to do the act until the fee is paid.

“(3) Notwithstanding the provisions of any regulations under this Act, the Registrar-General may dispense with the payment of any fee payable under this Act.”

**11. Disposition of fines and fees**—Section 66 of the principal Act is hereby amended by inserting, after the word “received”, the words “by a Registrar or the Registrar-General”.

**12. Communications to clergymen**—Section 2 of the Evidence Act 1908 is hereby amended by omitting the definition of “minister” (as amended by the Marriage Act 1955), and substituting the following definition:

“‘Minister’ means a minister of religion, and, in relation to a religious body the constitution or tenets of which do not recognise the office of minister of religion, includes a person for the time being exercising functions analogous to those of a minister of religion:”.

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This Act is administered in the Department of Justice.

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