



# Marriage (Scotland) Act 1977

## 1977 CHAPTER 15

### RELIGIOUS MARRIAGES

#### **9 Registration of nominated persons as celebrants.**

- (1) A religious body, not being—
  - (a) the Church of Scotland; or
  - (b) prescribed by virtue of section 8(1)(a)(ii) of this Act,may nominate to the Registrar General any of its members who it desires should be registered under this section as empowered to solemnise marriages  
F1 .....
- (2) The Registrar General shall reject a nomination made under subsection (1) above if in his opinion—
  - (a) the nominating body is not a religious body; or
  - (b) the marriage ceremony used by that body is not of an appropriate form; or
  - (c) the nominee is not a fit and proper person to solemnise a marriage; or
  - (d) there are already registered under this section sufficient members of the same religious body as the nominee to meet the needs of that body.
- (3) For the purposes of subsection (2)(b) above, a marriage ceremony is of an appropriate form if it includes, and is in no way inconsistent with—
  - (a) a declaration by the parties, in the presence of each other, the celebrant and two witnesses, that they accept each other as husband and wife; and
  - (b) a declaration by the celebrant, after the declaration mentioned in paragraph (a) of this subsection, that the parties are then husband and wife,and the Registrar General may, before deciding whether to accept or reject a nomination, require the nominating body to produce to him in writing the form of words used at its marriage ceremonies.
- (4) Where the Registrar General accepts a nomination made to him under subsection (1) above, he—
  - (a) shall determine the period during which the nominee shall be empowered to solemnise marriages, being a period of not more than 3 years; and

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(b) may determine that the nominee shall be empowered to solemnise marriages only in such area as the Registrar General may specify, and may make his acceptance subject to such other conditions as he thinks fit:

Provided that nothing in paragraph (a) above shall preclude the Registrar General from accepting a further nomination of that nominee, in accordance with this section, to take effect at any time after the end of the period determined by the Registrar General under the said paragraph (a).

(5) The Registrar General shall—

- (a) where he accepts a nomination made to him under subsection (1) above—
  - (i) so inform the nominee and the nominating body, specifying the period during which the acceptance shall have effect and any condition to which the acceptance is subject;
  - (ii) enter the name of the nominee, the nominating body and such other particulars as he deems appropriate in a register which he shall establish and maintain and which shall be made available for public inspection at all reasonable times without charge;
- (b) where he rejects the nomination, by notice in writing inform the nominating body of the reasons for that rejection.

[<sup>F2</sup>(5A) For the purpose of subsection (5)(b) above, notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.]

(6) The nominating body may, if aggrieved by a rejection under this section, within 28 days of receiving notice of that rejection, appeal to the Secretary of State, and on any such appeal the Secretary of State may direct the Registrar General to accept the nomination or may confirm its rejection and shall inform the nominating body of his direction or confirmation, as the case may be, and the reason for it; and such direction or confirmation shall be final:

Provided that if a reason given for a confirmation of the rejection of a nomination is that the nominating body is not a religious body, that body may, within 42 days of receiving notice of the confirmation, appeal against the confirmation to the Court of Session and seek the determination of that court as to whether the body is a religious body; and if—

- (a) the court determine that the nominating body is a religious body; and
- (b) the said reason was the only reason given for the confirmation, that determination shall be given effect to by the Registrar General as if it were a direction under this subsection to accept the nomination.

#### Textual Amendments

- F1** Words in s. 9(1) repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 9](#) (with regs. 44-46)
- F2** S. 9(5A) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), ss. [50\(6\)](#), [63\(2\)](#); [S.I. 2006/469](#), art. 2, schs. 1, 2 (with art. 4)

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## 10 Removal of celebrant's name from register.

- (1) Subject to the provisions of this section, the Registrar General may remove the name of a person registered under section 9 of this Act from the register on the ground that—
    - (a) that person has requested that his name should be so removed; or
    - (b) the body which nominated that person under section 9(1) of this Act no longer desires that he should be so registered; or
    - (c) the marriage ceremony used by the said body is no longer of an appropriate form within the meaning of section 9(3) of this Act; or
    - (d) that person—
      - (i) has, while registered as an approved celebrant, been convicted of an offence under this Act; or
      - (ii) has, for the purpose of profit or gain, been carrying on a business of solemnising marriages; or
      - (iii) is not a fit and proper person to solemnise marriages; or
      - (iv) for any other reason, should not be so registered.
  - (2) The Registrar General shall not remove the name of a person from the register on any ground mentioned in subsection (1)(d) above unless he has given to that person at least 21 days notice in writing of his intention to do so.
- [<sup>F3</sup>(2A) For the purpose of subsection (2) above, notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.]
- (3) The Registrar General shall—
    - (a) in the notice given under subsection (2) above, specify the ground of removal and call upon the said person to show cause, within the period specified in the notice, why his name should not be removed from the register; and
    - (b) consider any representations made to him within the said period by that person.
  - (4) Where a person's name has been removed from the register on any of the grounds mentioned in paragraphs (c) and (d) of subsection (1) above, that person or the body which nominated him under section 9(1) of this Act may, if aggrieved by the removal, within 28 days of receiving notice of the removal appeal to the Secretary of State, and on any such appeal the Secretary of State may give such direction as he thinks proper to the Registrar General as to the removal from, or restoration to, the register of that name; and such direction shall be final.
  - (5) Where a person has received a notice in pursuance of subsection (2) above, he shall not solemnise a marriage unless and until his name is restored to the register or, as the case may be, the Registrar General has decided not to remove his name from the register.

### Textual Amendments

- F3** S. 10(2A) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(7)**, **63(2)**; [S.S.I. 2006/469](#), **art. 2**, **schs. 1, 2** (with **art. 4**)

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## 11 Alterations to register maintained under s. 9.

A body registered in pursuance of section 9(5)(a)(ii) of this Act shall notify the Registrar General of any of the following events (if practicable, within 21 days of its occurrence)—

- (a) any change in the name or the address of the body or any amalgamation with any other religious body, giving the name and address of any approved celebrant who is a member of the body so registered;
- (b) the death of an approved celebrant who is a member of the body so registered;
- (c) any change of name, address or designation of an approved celebrant who is a member of the body so registered;
- (d) the cessation of an approved celebrant who is a member of the body so registered from exercising the functions of an approved celebrant, giving his name and address;

and the Registrar General shall, on receipt of any such notification, make whatever alteration to the register maintained by him under section 9 of this Act as he considers necessary or desirable.

## 12 Temporary authorisation of celebrants.

[<sup>F4</sup>(1)] The Registrar General may, in accordance with such terms and conditions as may be specified in the authorisation, grant to any person a temporary written authorisation to solemnise—

- (a) a marriage or marriages specified in the authorisation; or
- (b) marriages during such period as shall be specified in the authorisation:

<sup>F5</sup> ...

[<sup>F6</sup>(2) For the purpose of subsection (1) above, an authorisation which is issued by electronic means is to be treated as written if it is received in a form which is legible and capable of being used for subsequent reference.]

### Textual Amendments

- F4** S. 12(1): s. 12 renumbered as s. 12(1) (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(8)(a)**, 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)
- F5** Words in S. 12 repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), **Sch. 9** (with regs. 44-46)
- F6** S. 12(2) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 50(8)(b)**, 63(2); S.S.I. 2006/469, art. 2, schs. 1, 2 (with art. 4)

## 13 Preliminaries to solemnisation of religious marriages.

- (1) A marriage shall not be solemnised by an approved celebrant unless—
- (a) the parties produce to him before the marriage ceremony a Marriage Schedule, in respect of the marriage, issued in accordance with this Act;
  - (b) both parties to the marriage are present; and
  - (c) two persons professing to be 16 years of age or over are present as witnesses.

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(2) ..... F7

**Textual Amendments**

F7 S. 13(2)(3) repealed (*retrospectively*) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980](#) (c. 55, SIF 36:3), s. 22(1)(2), [Sch. 3](#)

**14 Form of ceremony to be used by approved celebrant.**

An approved celebrant who is a person specified—

- (a) in section 8(1)(a)(i) or (ii) of this Act shall not solemnise a marriage except in accordance with a form of ceremony recognised by the religious body to which he belongs as sufficient for the solemnisation of marriages;
- (b) in section 8(1)(a)(iii) or (iv) of this Act shall not solemnise a marriage except in accordance with a form of ceremony which includes and is in no way inconsistent with the declarations specified in section 9(3) of this Act.

**15 Registration of religious marriages.**

- (1) Immediately after the solemnisation of the marriage the Marriage Schedule shall be signed by the parties contracting the marriage, by both witnesses present thereat and by the approved celebrant.
- (2) The parties to the marriage shall, within 3 days thereafter, deliver the Marriage Schedule, or send it by post or arrange that it is delivered, to the district registrar.
- (3) As soon as possible after receipt of the Marriage Schedule, the district registrar shall cause the particulars as set forth in that Schedule to be entered in the register of marriages kept by him; and subject to subsection (4) below, he shall not register a religious marriage unless and until he receives a duly signed Marriage Schedule in respect of that marriage.
- (4) Where the Registrar General is satisfied that a marriage has been properly solemnised and that the Marriage Schedule in respect of the marriage has been duly signed but has been lost or destroyed, he may direct the district registrar to complete an exact copy of the original Marriage Schedule and, so far as practicable, to arrange for its signature by those persons who signed the original Schedule; and as soon as possible thereafter, the district registrar shall cause the particulars as set forth in that copy to be entered in the register of marriages kept by him.
- [<sup>F8</sup>(5) In this section and section 16 of this Act, “the district registrar” means—
  - (a) where the marriage has been solemnised in a registration district, the district registrar for that district;
  - (b) where the marriage has been solemnised in Scottish waters, the district registrar who issued the Marriage Schedule in respect of the marriage.]

**Textual Amendments**

F8 S. 15(5) inserted (1.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006](#) (asp 14), [ss. 48\(5\)](#), 63(2); S.S.I. 2006/469, art. 3, sch. 2 (with art. 4)

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## **16 Registrar's power to require delivery of Marriage Schedule.**

- (1) Where after the expiration of 21 days from the date of marriage as entered in the Marriage Schedule that Schedule has not been delivered to the district registrar, he may serve a notice in the prescribed form on either of the parties to the marriage requiring that party within 8 days from the date of service of the notice to deliver the said Schedule, or send it by post, to the district registrar.
- (2) If any party on whom a notice has been served in pursuance of subsection (1) above fails to comply with the notice, the district registrar may serve on that party a second notice in the prescribed form requiring that party to attend personally at the registration office of the district registrar, within 8 days from the date of service of the second notice, for the purpose of delivering the Marriage Schedule to the district registrar to enable him to register the marriage.

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