

SCHEDULES

SCHEDULE 1

Section 1(7).

AMENDMENT OF MARRIAGE ACT 1949

- 1 The Marriage Act 1949 shall have effect subject to the following amendments.
- 2 In section 17 (place of Church of England marriage)—
 - (a) after the words " may be published " there shall be inserted the words " or in the case of a marriage in pursuance of section 26(1)(dd) of this Act the place specified in the notice of marriage and certificate as the place where the marriage is to be solemnized "; and
 - (b) after the words "thereof or" there shall be inserted the words " (wherever the marriage is solemnized) ".
- 3 In section 25 (void marriages)—
 - (a) at the beginning of paragraph (a) there shall be inserted the words " except in the case of a marriage in pursuance of section 26(1)(dd) of this Act, "; and
 - (b) in paragraph (d) for the words " or other building specified in the notice of marriage and certificate" there shall be substituted the words " building or other place specified in the notice of marriage and certificate as the place where the marriage is to be solemnized ".
- 4 In section 26 (marriages which may be solemnized by superintendent registrar's certificate)—
 - (a) in subsection (1) the following paragraph shall be inserted after paragraph (d)—
 - “(dd) the marriage (other than a marriage in pursuance of paragraph (c) or (d) above) of a person who is house-bound or is a detained person at the place where he or she usually resides ;”;and in paragraph (e) after the words " Church of England " there shall be inserted the words " in any church or chapel in which banns of matrimony may be published. " ; and
 - (b) in subsection (2) after the words " shall not issue a licence " there shall be inserted the words " for a marriage intended to be solemnized at a person's residence in pursuance of subsection (1)(dd) of this section or ".
- 5 In section 27 (notice of marriage)—
 - (a) in subsection (3) after the words " to be married and " there shall be inserted the words " in the case of a marriage intended to be solemnized at a person's residence in pursuance of section 26(1)(dd) of this Act, which residence is to be the place of solemnization of the marriage and, in any other case, ";
 - (b) in subsection (4) after the words " and shall" there shall be inserted the words " subject to section 27A of this Act "; and
 - (c) the following subsection shall be inserted after subsection (6) —

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“(7) The superintendent registrar shall be entitled to receive from any person intending to be married in pursuance of section 26(1)(dd) of this Act upon whom he attends at a place other than his office in order to be given notice of marriage under this section the sum of £20.”.

6 After section 27 there shall be inserted the following section—

“27A Additional information required in certain cases.

- (1) This section applies in relation to any marriage intended to be solemnized at a person's residence in pursuance of section 26(1)(dd) of this Act, and in the following provisions of this section that person is referred to as " the relevant person ".
- (2) Where the relevant person is not a detained person, the notice of marriage required by section 27 of this Act shall be accompanied by a medical statement relating to that person made not more than fourteen days before the date on which the notice is given.
- (3) Where the relevant person is a detained person, the notice of marriage required by section 27 of this Act shall be accompanied by a statement made in the prescribed form by the responsible authority not more than twenty-one days before the date on which notice of the marriage is given under section 27—
 - (a) identifying the establishment where the person is detained ; and
 - (b) stating that the responsible authority has no objection to that establishment being specified in the notice of marriage as the place where that marriage is to be solemnized.
- (4) The person who gives notice of the marriage to the superintendent registrar in accordance with section 27 of this Act shall give the superintendent registrar the prescribed particulars, in the prescribed form, of the person by or before whom the marriage is intended to be solemnized.
- (5) The superintendent registrar shall not enter the particulars given in the notice of the marriage in the marriage notice book until he has received the statement and the particulars required by subsections (2) or (3) and (4) of this section.
- (6) The fact that a superintendent registrar has received a statement under subsection (2) or (as the case may be) (3) of this section shall be entered in the marriage notice book together with the particulars given in the notice of marriage and any such statement together with the form received under subsection (4) of this section shall be filed and kept with the records of the office of the superintendent registrar or, where notice of marriage is required to be given to two superintendent registrars, of either of them.
- (7) In this section—

" medical statement", in relation to any person, means a statement made in the prescribed form by a registered medical practitioner that in his opinion at the time the statement is made—

 - (a) by reason of illness or disability, he or she ought not to move or be moved from the place where he or she is at that time, and

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- (b) it is likely that it will be the case for at least the following three months that by reason of the illness or disability he or she ought not to move or be moved from that place; and
- " registered medical practitioner " has the meaning given by Schedule 1 to the Interpretation Act 1978 ; and
- " responsible authority " means—
- (a) if the person is detained in a hospital (within the meaning of Part II of the Mental Health Act 1983), the managers of that hospital (within the meaning of section 145(1) of that Act); or
- (b) if the person is detained in a prison or other place to which the Prison Act 1952 applies, the governor or other officer for the time being in charge of that prison or other place.”.
- 7 In section 34 (solemnization of marriages in registration district in which one of the parties resides) for the words "in a building which is not " there shall be substituted the words " elsewhere than " .
- 8 In section 37 (notice of marriage given in Scotland) in subsection (1)(b) after " twenty-seven " there shall be inserted " 27A " .
- 9 In section 38(2) (notice of marriage given in Northern Ireland) for the words " church or other building in which " there shall be substituted the words " place where " .
- 10 In section 39 (notice of marriage given on board Her Majesty's ships)—
- (a) in subsection (2) after the words " including penal provisions " there shall be inserted the words " but excluding section 27 A " ; and
- (b) in subsection (3) after " twenty-seven " there shall be inserted " 27A " .
- 11 The following section shall be inserted after section 45—

“45A Solemnization of certain marriages.

- (1) This section applies to marriages solemnized, otherwise than according to the rites of the Church of England, in pursuance of section 26(1)(dd) of this Act at the place where a person usually resides.
- (2) The marriage may be solemnized according to a relevant form, rite or ceremony in the presence of a registrar of the registration district in which the place where the marriage is solemnized is situated and of two witnesses and each of the persons contracting the marriage shall make the declaration and use the form of words set out in subsection (3) of section 44 of this Act in the case of marriages in registered buildings in the presence of a registrar.
- (3) Where the marriage is not solemnized in pursuance of subsection (2) of this section it shall be solemnized in the presence of the superintendent registrar and a registrar of the registration district in which the place where the marriage is solemnized is situated and in the presence of two witnesses, and the persons to be married shall make the declarations and use the form of words set out in subsection (3) of section 44 of this Act in the case of marriages in registered buildings in the presence of a registrar.
- (4) No religious service shall be used at any marriage solemnized in the presence of a superintendent registrar.

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- (5) In subsection (2) of this section a "relevant form, rite or ceremony" means a form, rite or ceremony of a body of persons who meet for religious worship in any registered building being a form, rite or ceremony in accordance with which members of that body are married in any such registered building."
- 12 In section 46 (civil marriage followed by religious ceremony) for the words "solemnized in the office of a superintendent registrar" in each place where they occur, there shall be substituted the words "solemnized in the presence of a superintendent registrar".
- 13 In section 49 (void marriages) the following shall be inserted after paragraph (g)—
- "or
- (h) in the case of a marriage to which section 45A of this Act applies, in the absence of any superintendent registrar or registrar whose presence at that marriage is required by that section;"
- 14 In section 50 (delivery of certificate to registrar) in subsection (1)(a) after the words "registered building" there shall be inserted the words "or at a person's residence".
- 15 In section 51 (fees) at the beginning there shall be inserted "(1)" and at the end there shall be added the following subsection—
- “(2) A superintendent registrar shall be entitled to receive from persons married in his presence in pursuance of section 26(1)(dd) of this Act the sum of £20.”
- 16 In section 53 (persons by whom marriages are to be registered) in paragraph (d) after the words "registered building" there shall be inserted the words "or at a person's residence".
- 17 In section 55 (manner of registration of marriages) the following subsections shall be added after subsection (3)—
- “(4) Where a marriage is solemnized according to the rites of the Church of England in pursuance of section 26(1)(dd) of this Act, the marriage shall be registered in accordance with the provisions of this section in the marriage register books of any church or chapel which is in the same parish or extra-parochial place as is the place where the marriage is solemnized or, if there is no such church or chapel, of any church or chapel in any adjoining parish.
- (5) Where by virtue of subsection (4) of this section a clergyman is required to register a marriage in the marriage register books of a church or chapel of which he is not the incumbent, the incumbent may give the books into his custody at a convenient time before the marriage is solemnized and he shall keep them safely and return them to the custody of the incumbent as soon as is reasonably practicable.”
- 18 In section 59 (custody of register books) at the beginning there shall be inserted the words "Subject to section 55(5) of this Act".
- 19 In section 67 in paragraph (a) of the definition of "superintendent registrar" for the words from "the church" to the end there shall be substituted the words "is situated the church or chapel of which the incumbent keeps the marriage register book in which that marriage is registered ;".
- 20 In section 75 (criminal offences)—

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- (a) in paragraph (c) of subsection (1) after the words " special licence " there shall be inserted the words " or a marriage in pursuance of section 26(1)(dd) of this Act ";
- (b) in subsection (2)(a)(ii) for the words " or office specified " there shall be substituted the words " office or person's residence specified as the place where the marriage was to be solemnized ";
- (c) after subsection (2)(b) there shall be inserted the following paragraph—
 - “(bb) solemnizes a marriage in pursuance of section 26(1)(dd) of this Act, otherwise than according to the rites of the Church of England, in the absence of a registrar of the registration district in which the place where the marriage is solemnized is situated ;”;
- (d) in subsection (3)(d) after the words " in his office " there shall be inserted the words " or, in the case of a marriage in pursuance of section 26(1)(dd) of this Act, in any other place ".

21 In section 78 (interpretation) the following subsections shall be inserted after subsection (2)—

- “(3) For the purposes of this Act a person is house-bound if—
 - (a) the notice of his or her marriage given in accordance with section 27 of this Act is accompanied by a medical statement (within the meaning of section 27A(7) of this Act) made, not more than fourteen days before the date on which that notice was given, in relation to that person ; and
 - (b) he or she is not a detained person.
- (4) For the purposes of this Act a person is a detained person if he or she is for the time being detained—
 - (a) otherwise than by virtue of section 2, 4, 5, 35, 36 or 136 of the Mental Health Act 1983 (short term detentions), as a patient in a hospital; or
 - (b) in a prison or other place to which the Prison Act 1952 applies, and in paragraph (a) above " patient" and " hospital" have the same meanings as in Part II of the Mental Health Act 1983.
- (5) For the purposes of this Act a person who is house-bound or is a detained person shall be taken, if he or she would not otherwise be, to be resident and usually resident at the place where he or she is for the time being.”.