



# Marriage Act 1949

1949 CHAPTER 76 12 13 and 14 Geo 6

## PART I

### RESTRICTIONS ON MARRIAGE

#### 1 Marriages within prohibited degrees.

- (1) A marriage solemnized [<sup>F1</sup>between a person and any person mentioned in the list in Part 1 of Schedule 1], shall be void.
- [<sup>F2</sup>(2) Subject to subsection (3) of this section, a marriage solemnized [<sup>F3</sup>between a person and any person mentioned in the list in Part 2 of Schedule 1], shall be void.
- (3) Any such marriage as is mentioned in subsection (2) of this section shall not be void by reason only of affinity if both the parties to the marriage have attained the age of twenty-one at the time of the marriage and the younger party has not at any time before attaining the age of eighteen been a child of the family in relation to the other party.]

<sup>F4</sup>(4) .....

<sup>F4</sup>(5) .....

<sup>F4</sup>(6) .....

<sup>F4</sup>(7) .....

<sup>F4</sup>(8) .....

#### Textual Amendments

- F1** Words in s. 1(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 13\(2\)](#); S.I. 2005/3175, art. 2(2)
- F2** S. 1(2)–(5) inserted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), s. 1(6), [Sch. 1 para. 2](#); original s. 1(2)(3) repealed by [Marriage \(Enabling\) Act 1960 \(c. 29\)](#), [Sch. 1](#)
- F3** Words in s. 1(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 13\(3\)](#); S.I. 2005/3175, art. 2(2)

*Status: Point in time view as at 13/03/2014.*

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**F4** S. 1(4)-(8) omitted (1.3.2007) by virtue of [The Marriage Act 1949 \(Remedial\) Order 2007 \(S.I. 2007/438\)](#), arts. 1(1), **2(a)** (with art. 1(2))

## 2 Marriages of persons under sixteen.

A marriage solemnized between persons either of whom is under the age of sixteen shall be void.

## 3 Marriages of persons under twenty-one.

- (1) Where the marriage of [<sup>F5</sup>a child], not being a widower or widow [<sup>F6</sup>or a surviving civil partner], is intended to be solemnized on the authority of <sup>F7</sup>. . . issued by a superintendent registrar under Part III of this Act, <sup>F8</sup>. . . the consent of the [<sup>F9</sup>appropriate persons] shall be required <sup>F10</sup>. . . :

Provided that—

- (a) if the superintendent registrar is satisfied that the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the necessity for the consent of that person shall be dispensed with, if there is any other person whose consent is also required; and if the consent of no other person is required, the Registrar General may dispense with the necessity of obtaining any consent, or the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent cannot be so obtained;
- (b) if any person whose consent is required refuses his consent, the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent is refused.

[<sup>F11</sup>(1A) The appropriate persons are—

- (a) if none of paragraphs (b) to (h) apply, each of the following—
  - (i) any parent of the child who has parental responsibility for him; and
  - (ii) any guardian of the child;
- (b) where a special guardianship order is in force with respect to a child, each of the child's special guardians, unless any of paragraphs (c) to (g) applies;
- (c) where a care order has effect with respect to the child, the local authority designated in the order, and each parent, guardian or special guardian (in so far as their parental responsibility has not been restricted under section 33(3) of the Children Act 1989), unless paragraph (e) applies;
- (d) where a residence order has effect with respect to the child, the persons with whom the child lives, or is to live, as a result of the order, unless paragraph (e) applies;
- (e) where an adoption agency is authorised to place the child for adoption under section 19 of the Adoption and Children Act 2002, that agency or, where a care order has effect with respect to the child, the local authority designated in the order;
- (f) where a placement order is in force with respect to the child, the appropriate local authority;
- (g) where a child has been placed for adoption with prospective adopters, the prospective adopters (in so far as their parental responsibility has not been

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restricted under section 25(4) of the Adoption and Children Act 2002), in addition to those persons specified in paragraph (e) or (f);

- (h) where none of paragraphs (b) to (g) apply but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the persons with whom he lived, or was to live, as a result of the order.]

[<sup>F12</sup>(1B) In this section—

“guardian of a child”, “parental responsibility”, “residence order”, “special guardian”, “special guardianship order” and “care order” have the same meaning as in the Children Act 1989;

“adoption agency”, “placed for adoption”, “placement order” and “local authority” have the same meaning as in the Adoption and Children Act 2002;

“appropriate local authority” means the local authority authorised by the placement order to place the child for adoption.]

- (2) [<sup>F13</sup>Subsection (1)] shall apply to marriages intended to be solemnized on the authority of a common licence, with the substitution of references to the ecclesiastical authority by whom the licence was granted for references to the superintendent registrar, and with the substitution of a reference to the Master of the Faculties for the reference to the Registrar General.
- (3) Where the marriage of [<sup>F5</sup>a child], not being a widower or widow, is intended to be solemnized after the publication of banns of matrimony then, if any person whose consent to the marriage would have been required under this section in the case of a marriage intended to be solemnized otherwise than after the publication of the banns, openly and publicly declares or causes to be declared, in the church or chapel in which the banns are published, at the time of the publication, his dissent from the intended marriage, the publication of banns shall be void.
- (4) A clergyman shall not be liable to ecclesiastical censure for solemnizing the marriage of [<sup>F5</sup>a child] after the publication of banns without the consent of the parents or guardians of [<sup>F5</sup>the child] unless he had notice of the dissent of any person who is entitled to give notice of dissent under the last foregoing subsection.
- (5) For the purposes of this section, “the court” means the High Court, [<sup>F14</sup>the county court of the district in which any applicant or respondent resides], or a court of summary jurisdiction [<sup>F15</sup>[<sup>F16</sup>acting in the local justice area] in which any applicant or respondent resides], and rules of court may be made for enabling applications under this section—
- if made to the High Court, to be heard in chambers;
  - if made to the county court, to be heard and determined by the registrar subject to appeal to the judge;
  - if made to a court of summary jurisdiction, to be heard and determined otherwise than in open court,
- and shall provide that, where an application is made in consequence of a refusal to give consent, notice of the application shall be served on the person who has refused consent.
- (6) Nothing in this section shall dispense with the necessity of obtaining the consent of the High Court to the marriage of a ward of court.

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### Textual Amendments

- F5** Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1), 34(2)(5), **Sch. 2 para. 9**
- F6** Words in s. 3(1) inserted (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 7 para. 3**; S.I. 2014/93, art. 3(k)(i)
- F7** Word in s. 3(1) substituted (1.1.2001) by 1999 c. 33, s. 169(1), Sch. 14 paras. 3, **4(a)**; S.I. 2000/2698, **art. 2**
- F8** Words in s. 3(1) repealed (1.1.2001) by 1999 c. 33, s. 169(1)(3), Sch. 14 paras. 3, 4(b), **Sch. 16**; S.I. 2000/2698, **art. 2**
- F9** Words in s. 3(1) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 2** (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F10** Words in s. 3(1) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, **Sch. 15** (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, **art. 3(2)**
- F11** S. 3(1A) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 3** (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F12** S. 3(1B) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 4** (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F13** Words in s. 3(2) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 5** (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2(o)
- F14** Words substituted by [Family Law Reform Act 1969 \(c. 46\)](#), s. **2(2)**
- F15** Words inserted by [Family Law Reform Act 1969 \(c. 46\)](#), s. **2(2)**
- F16** Words in s. 3(5) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), **Sch. 8 para. 85**; S.I. 2005/910, art. 3(y)

### Modifications etc. (not altering text)

- C1** S. 3 extended by [Family Law Reform Act 1969 \(c. 46\)](#), s. **2(3)**; applied with modification by [Marriage \(Registrar General's Licence\) Act 1970 \(c. 34\)](#), s. **6**

## <sup>F17</sup>4 **Hours for solemnization of marriages.**

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### Textual Amendments

- F17** S. 4 repealed (1.10.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 114(1)(a), 120, **Sch. 10 Pt. 11** (with s. 97); S.I. 2012/2234, art. 3(m)

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