



Marriage Act 1949

1949 CHAPTER 76 12 13 and 14 Geo 6

PART II

MARRIAGE ACCORDING TO RITES OF THE CHURCH OF ENGLAND

Marriage by Common Licence

16 Provisions as to common licences.

- (1) A common licence shall not be granted unless one of the persons to be married has sworn before a person having authority to grant such a licence—
- (a) that he or she believes that there is no impediment of kindred or alliance or any other lawful cause, nor any suit commenced in any court, to bar or hinder the solemnization of the marriage in accordance with the licence;
 - (b) that one of the persons to be married has had his or her usual place of residence in the parish or other ecclesiastical district in which the marriage is to be solemnized for fifteen days immediately before the grant of the licence or that the parish church or authorised chapel in which the marriage is to be solemnized is the usual place of worship of those persons or of one of them;
 - (c) where one of the persons to be married is [^{F1}a child] and is not a widower or widow, that the consent of the person or persons whose consent to the marriage is required under section three of this Act has been obtained, that the necessity of obtaining any such consent has been dispensed with under that section, that the court has consented to the marriage under that section, or that there is no person whose consent to the marriage is so required.
- [^{F2}(1A) A common licence shall not be granted for the solemnization of a marriage mentioned in subsection (2) of section 1 of this Act unless—
- (a) the person having authority to grant the licence is satisfied by the production of evidence that both the persons to be married have attained the age of twenty-one; and
 - (b) he has received a declaration in writing made by each of those persons specifying their affinal relationship and declaring that the younger of those

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Changes to legislation: Marriage Act 1949, Section 16 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

persons has not at any time before attaining the age of eighteen been a child of the family in relation to the other.

(1B) In the case of a marriage mentioned in subsection (4) of section 1 of this Act which by virtue of subsection (5) of that section is valid only if at the time of the marriage both the parties to the marriage have attained the age of twenty-one and the death has taken place of two other persons related to those parties in the manner mentioned in the said subsection (5), a common licence shall not be granted for the solemnization of the marriage unless the person having authority to grant the licence is satisfied by the production of evidence—

(a) that both the parties to the marriage have attained the age of twenty-one; and

(b) that both those other persons are dead.]

(2) [^{F3}Subject to subsection (2A) of this section] if any caveat is entered against the grant of a common licence, the caveat having been duly signed by or on behalf of the person by whom it is entered and stating his place of residence and the ground of objection on which the caveat is founded, no licence shall be granted until the caveat or a copy thereof is transmitted to the ecclesiastical judge out of whose office the licence is to issue, and the judge has certified to the registrar of the diocese that he has examined into the matter of the caveat and is satisfied that it ought not to obstruct the grant of the licence, or until the caveat is withdrawn by the person who entered it.

[^{F4}(2A) Where in the case of a marriage mentioned in subsection (2) of section 1 of this Act a caveat is entered under subsection (2) of this section on the ground that the persons to be married have not both attained the age of twenty-one or that one of those persons has at any time before attaining the age of eighteen been a child of the family in relation to the other, then, notwithstanding that the caveat is withdrawn by the person who entered it, no licence shall be issued unless the judge has certified that he has examined into that ground of objection and is satisfied that that ground ought not to obstruct the grant of the licence.

(2B) In the case of a marriage mentioned in subsection (2) of section 1 of this Act, one of the persons to be married may apply to the ecclesiastical judge out of whose office the licence is to issue for a declaration that, both those persons having attained the age of twenty-one and the younger of those persons not having at any time before attaining the age of eighteen been a child of the family in relation to the other, there is no impediment of affinity to the solemnization of the marriage; and where any such declaration is obtained the common licence may be granted notwithstanding that no declaration has been made under the said subsection (1A).]

(3) Where a marriage is not solemnized within three months after the grant of a common licence, the licence shall be void and no clergyman shall solemnize the marriage on the authority thereof.

(4) No surrogate deputed by an ecclesiastical judge who has power to grant common licences shall grant any such licence until he has taken an oath before that judge, or a commissioner appointed under the seal of that judge, faithfully to execute his office according to law, to the best of his knowledge, . . . ^{F5}.

Textual Amendments

F1 Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1), 34(2)(5), [Sch. 2 para.](#)

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- F2** S. 16 (1A)(1B) inserted by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), s. 1(4)(6), **Sch. 1 para. 4(a)**
- F3** Words inserted by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), s. 1(4)(6), **Sch. 1 para. 4(b)**
- F4** S. 16(2A)(2B) by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), s. 1(4)(6), **Sch. 1 para. 4(c)**
- F5** Words repealed by Statute Law (Repeals) Act 1975 (c. 10), s. 1(1), **Sch. Pt. VI**

Modifications etc. (not altering text)

- C1** S. 16(4) amended by Statute Law (Repeals) Act 1975 (c. 10), s. 1(3)

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