



BILL NO. 17

Government Bill

*1st Session, 63rd General Assembly
Nova Scotia
66 Elizabeth II, 2017*

An Act to Amend Chapter 436 of the Revised Statutes, 1989, the Solemnization of Marriage Act

CHAPTER 15
ACTS OF 2017

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
OCTOBER 26, 2017**

The Honourable Geoff MacLellan
Minister of Service Nova Scotia

*Halifax, Nova Scotia
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**An Act to Amend Chapter 436
of the Revised Statutes, 1989,
the Solemnization of Marriage Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 1 of Chapter 436 of the Revised Statutes, 1989, the *Solemnization of Marriage Act*, is amended by striking out “*Solemnization of*” in the first line.

2 Section 2 of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by

(a) striking out clause (a);

(b) adding immediately after clause (d) the following clause:

(da) “Minister” means the Minister of Service Nova Scotia;

and

(c) striking out clause (g) and substituting the following clause:

(g) “religious representative” includes a person authorized to be registered under subsection (1A) of Section 6.

3 Subsection 4(4) of Chapter 436, as enacted by Chapter 23 of the Acts of 1996, is amended by striking out “recommended by the Chief Judge of the Provincial Court” in the first and second lines.

4 The heading immediately before Section 5 of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “CLERICS” and substituting “MINISTERS, CLERICS AND RELIGIOUS REPRESENTATIVES”.

5 (1) Subsection 5(1) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “or cleric of a religious body and any staff officer of the Salvation Army” in the second, third and fourth lines and substituting “, cleric or religious representative of a religious body”.

(2) Subsection 5(2) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “staff officer” in the second and in the fourth and fifth lines and substituting in each case “religious representative”.

6 (1) Subsection 6(1) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by

(a) striking out “staff officer” in the second line of clause (a) and substituting “religious representative”;

(b) striking out “staff officers” in the seventh line of clause (c) and substituting “religious representatives”.

(2) Section 6 of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by adding immediately after subsection (1) the following subsection:

(1A) Notwithstanding subsection (1), where it appears to the Registrar that the doctrines of a religious body do not recognize any person as authorized to solemnize marriage, the Registrar may register a person duly designated by the governing authority having jurisdiction in the Province of the religious body to perform all the duties imposed upon a person solemnizing a marriage by this Act and the *Vital Statistics Act* in respect of marriages performed according to the rites, usages and customs of the religious body.

(3) Subsection 6(2) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “staff officer” in the first and second, in the fifth and sixth and in the seventh lines and substituting in each case “religious representative”.

7 Subsection 7(3) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “staff officers” in the third line and substituting “religious representatives”.

8 Subsection 10(1) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by

(a) striking out “staff officer” in the second and third lines and substituting “religious representative”;

(b) striking out “staff officer within the meaning of this Act” in the sixth line and substituting “religious representative”; and

(c) striking out “husband and wife” in the ninth line and substituting “spouses”.

9 Subsection 11(1) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “staff officer” in the third and fourth lines and substituting “religious representative”.

10 Sections 12 and 13 of Chapter 436 are repealed.

11 (1) Subsection 16(1) of Chapter 436 is repealed and the following subsection substituted:

(1) Marriage licenses shall be in the form prescribed by the Minister.

(2) Subsection 16(2) of Chapter 436 is amended by striking out “may be respectively in Form B and C in the Schedule to this Act, or to the like effect” in the sixth and seventh lines and substituting “must each be in the form prescribed by the Minister”.

12 (1) Subsection 17(1) of Chapter 436, as amended by Chapter 4 of the Acts of 1999, is further amended by

(a) striking out “Every person applying for a license” in the first line and substituting “When applying for a license, each party to the intended marriage”;

(b) striking out clause (a) and substituting the following clause:

(a) the full name, place of residence, occupation and marital status—never married, widowed or divorced—of the person making the affidavit;

(c) striking out “and that the other party to the intended marriage is of the full age of nineteen years or the age of such other party if under the age of nineteen years, as the case may be” in the second to fifth lines of clause (c);

(d) striking out “a party to the intended marriage is a divorcee” in the first and second lines of clause (d) and substituting “the person making the affidavit is divorced”;

(e) striking out “decree absolute” in the fourth line of clause (d) and substituting “certificate”;

(f) striking out “each divorcee” in the fifth and sixth lines of clause (d) and substituting “the person”; and

(g) striking out “a party to the intended marriage is a widower” in the first and second lines of clause (e) and substituting “the person making the affidavit is widowed”.

(2) Subsection 17(2) of Chapter 436 is repealed and the following subsection substituted:

(2) Where a party to the intended marriage is under the age of nineteen years,

(a) the affidavit made by the party must state the facts necessary to enable the issuer to determine whether the consent required under Section 20 has been duly given or whether such consent is necessary; and

(b) the written consent required under Section 20 must be annexed to the affidavit made by the party.

(3) Subsection 17(3) of Chapter 436 is amended by striking out “The affidavit may be in Form D in the Schedule to this Act, or to the like effect,” in the first and second lines and substituting “An affidavit must be in the form prescribed by the Minister”.

(4) Subsection 17(4) of Chapter 436, as enacted by Chapter 4 of the Acts of 1999, is amended by

(a) striking out “affidavit” in the first line and substituting “affidavits”; and

(b) striking out “applicant” in the second line and substituting “applicants”.

13 Subsection 19(1) of Chapter 436, as amended by Chapter 4 of the Acts of 1999, is further amended by

(a) striking out “applicant” in the first and second lines and substituting “applicants”; and

(b) striking out “his” in the eighth line and substituting “the issuer’s”.

14 (1) Subsection 20(1) of Chapter 436 is amended by

(a) striking out “a widow, widower or divorcee” in the third line and substituting “widowed or divorced”;

(b) striking out subclause (a)(iv) and substituting the following subclause:

(iv) the father of the party is not stated on the party’s registration of birth;

(c) striking out “who has had custody of the party granted to him” in the second and third lines of clause (b) and substituting “to whom custody of the party has been granted”;

(d) striking out “party is an illegitimate child” in the fifth and sixth lines of clause (b) and substituting “the father of the party is not stated on the party’s registration of birth”;

(e) striking out clause (d) and substituting the following clause:

(d) an agency as defined in the *Children and Family Services Act* if the party is, under that Act, committed to the care and custody of the agency,

and

(f) striking out “has satisfied himself” in the third-last line and substituting “is satisfied”.

(2) Clause 20(2)(c) of Chapter 436 is amended by striking out “the Minister of Community Services, a children’s aid society or a family and children’s service” in the second, third and fourth lines and substituting “an agency as defined in the *Children and Family Services Act*”.

(3) Subsection 20(3) of Chapter 436 is amended by striking out “county court of the district in which the party resides” in the fifth and sixth lines and substituting “Supreme Court of Nova Scotia”.

(4) Subsection 20(5) of Chapter 436 is amended by striking out “county court of the district in which the person whose consent is sought resides or, where it is uncertain whose consent is required, to the judge of the county court of the district in which the party resides” in the sixth to tenth lines and substituting “Supreme Court of Nova Scotia”.

15 (1) Subsection 21(1) of Chapter 436 is amended by striking out “Except as provided in subsection (2), no” in the first line and substituting “No”.

(2) Subsections 21(2) and (3) of Chapter 436 are repealed.

16 (1) Subsection 22(1) of Chapter 436 is amended by striking out “conjugal condition” in the fourth line and substituting “marital status”.

(2) Subsection 22(2) of Chapter 436 is repealed and the following subsection substituted:

(2) A marriage for which a marriage license has been issued may not be solemnized if the marriage license has expired.

17 (1) Subsection 23(1) of Chapter 436, as enacted by Chapter 23 of the Acts of 1996, is amended by adding “of Justice” immediately after “Minister” in the second line.

(2) Subsection 23(2) of Chapter 436, as enacted by Chapter 23 of the Acts of 1996, is amended by

- (a) adding “of Justice” immediately after “Minister” in the third line;**
- (b) adding “or spouse” immediately after “husband” in the fourteenth line;**
- (c) striking out “Solemnization of” in the seventeenth line; and**
- (d) striking out “husband and wife” in the nineteenth line and substituting “(husband and wife or lawfully married partners or lawfully married spouses or legally wed or husbands of one another or wives of one another)”.**

(3) Subsection 23(3) of Chapter 436, as enacted by Chapter 23 of the Acts of 1996, is amended by adding “of Justice” immediately after “Minister” in the second line.

(4) Subsection 23(4) of Chapter 436, as enacted by Chapter 23 of the Acts of 1996, is amended by

- (a) adding “of Justice” immediately after “Minister” in the third line; and**
- (b) striking out “cleric” in the sixth line and substituting “minister, cleric or religious representative”.**

(5) Subsection 23(5) of Chapter 436, as enacted by Chapter 23 of the Acts of 1996, is amended by adding “of Justice” immediately after “Minister” in the last line.

18 (1) Subsection 24(1) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by

- (a) striking out “cleric” in the fourth line of subclause (a)(iv) and substituting “minister, cleric or religious representative”;**
- (b) striking out “cleric” in the second-last line of clause (a) and substituting “minister, cleric or religious representative”;**
- (c) striking out “cleric” in the eighth line of clause (b) and substituting “minister, cleric or religious representative”;**
- (d) striking out “conditions” in the first line of subclause (c)(iii) and substituting “marital statuses”; and**
- (e) striking out “cleric” in the fifteenth line of clause (c) and substituting “minister, cleric or religious representative”.**

(2) Subsection 24(2) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by striking out “cleric” in the second and in the third lines and substituting in each case “minister, cleric or religious representative”.

(3) Subsection 24(3) of Chapter 436 is repealed and the following subsection substituted:

(3) The marriage certificate and marriage register must each be in the form prescribed by the Minister.

19 Section 29 of Chapter 436 is repealed.

20 Section 30 of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is further amended by

(a) striking out “this Act” in the third line and substituting “the Minister”; and

(b) striking out “clerics” in the fifth line and substituting “ministers, clerics and religious representatives”.

21 Subsection 33(1) of Chapter 436 is amended by

(a) striking out “county court” in the second line of clause (c) and substituting “Supreme Court of Nova Scotia”; and

(b) adding immediately after clause (c) the following clause:

(ca) respecting the expiration of marriage licenses;

22 Subsection 44(1) of Chapter 436, as amended by Chapter 23 of the Acts of 1996, is amended by

(a) striking out “cleric or minister” in the second and in the seventh lines and substituting in each case “minister, cleric or religious representative”; and

(b) striking out “man and wife” in the fifth line and substituting “spouses”.

23 Subsection 45(1) of Chapter 436 is amended by striking out “husband and wife” in the third-last line and substituting “spouses”.

24 The Schedule to Chapter 436 is repealed.

25 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
