

Solemnization of Marriage Act

CHAPTER 436 OF THE REVISED STATUTES, 1989

as amended by

1992, c. 16, s. 129; 1996, c. 23, ss. 40-43;
1999, c. 4, ss. 31, 32; 2010, c. 74; 2013, c. 28



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1999, c. 4, ss. 31, 32; 2010, c. 74; 2013, c. 28

**An Act Respecting the
Solemnization of Marriage**

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation	
Interpretation.....	2
Administration	
Administration of Act.....	3
Who May Solemnize Marriage	
Persons authorized to solemnize marriage.....	4
Registration of Clerics	
Registration of cleric.....	5
Conditions for registration.....	6
Cancellation of registration.....	7
Appeal from refusal or cancellation.....	8
Publication of list of registered persons.....	9
Saving as to Certain Marriages	
Validation of certain marriages.....	10
Validation of certain marriages.....	11
Solemnization by Quaker rite.....	12
Solemnization by Baha'i rite.....	13
Issuers of Marriage Licenses	
Deputy issuers of marriage licenses.....	14
Conditions for valid marriage in Province.....	15
Form of Licenses	
Marriage licenses and certificates.....	16
Application for Licenses	
Affidavit, certified copies and identification.....	17
Fee.....	18
Issue of license.....	19
Consent required where minor.....	20
Marriage under age sixteen.....	21

Requirements at Solemnization

Required notice and witnesses	22
Solemnization of marriage by a judge or justice	23
Duty of person who solemnizes marriage	24
Return of documents to issuer	25

Return by Issuers

Record of issuer	26
Duty of issuer to ascertain marriages entered	27
Returns by issuer	28

Forms

Forms	29
Preparation and distribution of blank forms	30

General Provisions

Mark of person unable to write	31
Error in register	32
Regulations	33

Penalties

Penalty for solemnizing under improper license	34
Penalty for alteration of license after issue	35
Penalty for solemnizing under wrong license	36
Penalty for solemnization by unauthorized person	37
Penalty for failure to return documents to issuer	38
Penalty for neglect of duty by issuer	39
Penalty for false return by issuer	40
Penalty for falsifying marriage register	41
Sending false statement of marriage for publication	42
Disposition of penalty	43

Savings as to Former Marriages

Marriages before July 5, 1906	44
Declaration of invalidity of marriage	45
Requirement for trial	46
Schedule	

Short title

1 This Act may be cited as the *Solemnization of Marriage Act*. R.S., c. 436, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

(a) “certificate” means a certificate in writing signed by the cleric who solemnized the marriage;

(b) *repealed 1996, c. 23, s. 40.*

(c) “issuer” means a person appointed to be a deputy issuer of marriage licenses;

- (d) “license” means a marriage license;
- (e) “Registrar” means the Registrar General and includes the Deputy Registrar General;
- (f) “religious body” means any church or any religious denomination, sect, congregation or society;
- (g) “staff officer” or “staff officer of the Salvation Army” means every duly commissioned officer, other than a probationary lieutenant, of the religious society known as the Salvation Army and duly chosen or commissioned by the society to solemnize marriage. R.S., c. 436, s. 2; 1996, c. 23, ss. 40, 43.

ADMINISTRATION

Administration of Act

3 The Registrar General for the Province referred to in the *Vital Statistics Act* shall have general supervision over the administration of this Act. R.S., c. 436, s. 3.

WHO MAY SOLEMNIZE MARRIAGE

Persons authorized to solemnize marriage

- 4** (1) No marriage shall be valid unless it is solemnized by a person authorized under this Act to solemnize marriage.
- (2) Every person registered under this Act is authorized to solemnize marriage.
- (3) A judge of any court in the Province is authorized to solemnize marriage.
- (4) A justice of the peace recommended by the Chief Judge of the Provincial Court may be designated by the Minister of Justice to solemnize marriage.
- (5) Where a judge or other person authorized to solemnize marriage in another province is temporarily in the Province, the judge or other person may apply to the Minister of Justice to be designated to solemnize a marriage in the Province. R.S., c. 436, s. 4; 1992, c. 16, s. 129; 1996, c. 23, s. 41.

REGISTRATION OF CLERICS

Registration of cleric

5 (1) Upon application in the form prescribed by the Registrar, the Registrar may register any minister or cleric of a religious body and any staff officer of the Salvation Army as authorized to solemnize marriage.

(2) The application for registration may be made on behalf of the minister, cleric or staff officer by a governing authority having jurisdiction in this Province of the religious body to which the minister, cleric or staff officer belongs or may be made by the person desiring to be registered.

(3) On such registration, the Registrar shall issue a certificate of registration in respect of each person registered under this Act, or may include in one certificate the names of any number of persons who belong to the same religious body.

(4) The Registrar shall keep a register showing the name of every person so registered, the name of the religious body to which each person belongs and the date of registration. R.S., c. 436, s. 5; 1996, c. 23, s. 43.

Conditions for registration

6 (1) No person shall be registered under this Act unless it appears to the satisfaction of the Registrar that

(a) the person is a minister, cleric or staff officer duly ordained or appointed according to the rites and usages of the religious body to which the person belongs, or is by the rules of that religious body deemed duly ordained or appointed by virtue of some prior ordination or appointment;

(b) the person is duly recognized by the religious body to which the person belongs as authorized to solemnize marriage according to its rites and usages;

(c) the religious body to which the person belongs is sufficiently well established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, to warrant, in the opinion of the Registrar, the registration of its ministers, clerics or staff officers as authorized to solemnize marriage; and

(d) the person is resident in the Province.

(2) In the case of a minister, cleric or staff officer who is in the Province temporarily and who, if resident in the Province, might be registered pursuant to subsection (1) as authorized to solemnize marriage, the Registrar may grant to that minister, cleric or staff officer temporary registration and may register that minister, cleric or staff officer as authorized to solemnize marriage during the period to be fixed by the Registrar, and the certificate of registration issued thereon shall state the period so fixed during which the authority to solemnize marriage may be exercised. R.S., c. 436, s. 6; 1996, c. 23, s. 43.

Cancellation of registration

7 (1) Where it appears to the satisfaction of the Registrar that any person registered under this Act as authorized to solemnize marriage has ceased to

or does not possess the qualifications entitling that person to be so registered, the Registrar may, with or without any hearing, cause an entry to be made in the register kept by the Registrar under this Act cancelling the registration of that person and shall cause public notice of the cancellation to be published in one issue of the Royal Gazette and, if the Registrar thinks fit, in one or more issues of any newspaper published in the Province, and upon publication of the notice in the Royal Gazette the authority of that person to solemnize marriage in conformity with this Act shall cease.

(2) The Registrar shall cause notice of the cancellation to be mailed forthwith by registered mail to the person whose registration is cancelled, addressed to that person's last known address in the Province.

(3) It is the duty of the governing authority having jurisdiction in this Province of every religious body whose ministers, clerics or staff officers are registered under this Act as authorized to solemnize marriage to notify the Registrar from time to time of the name of every person so registered who has died, has ceased to reside in the Province or has in any other way ceased to possess the qualifications entitling that person to be so registered. R.S., c. 436, s. 7; 1996, c. 23, s. 43.

Appeal from refusal or cancellation

8 Where the Registrar refuses the application made by or on behalf of any person for registration under this Act or where the Registrar cancels the registration of any person so registered, the applicant or person may appeal therefrom to the Governor in Council. R.S., c. 436, s. 8.

Publication of list of registered persons

9 (1) The Registrar shall cause a list of the names of all persons registered under this Act as authorized to solemnize marriage to be published at least once each year in the Royal Gazette and a copy of the list to be furnished to each issuer of marriage licenses.

(2) The list shall be prepared in alphabetical order of surnames and shall indicate the religious body to which each person whose name appears thereon belongs.

(3) Supplementary lists may be published and distributed from time to time as directed by the Registrar. R.S., c. 436, s. 9.

SAVING AS TO CERTAIN MARRIAGES

Validation of certain marriages

10 (1) Notwithstanding any lack of legal authority to solemnize marriage in the minister, cleric or staff officer by whom the marriage was solemnized, the solemnization of every marriage solemnized in the Province before the first day of August, 1937, in good faith, before a minister, cleric or staff officer within the meaning of this Act, between persons neither of whom was at the time under any

legal disqualification to contract the marriage and who thereafter lived together and cohabited as husband and wife, shall for all purposes be deemed to be and to have been from the date of the solemnization lawful and valid, but nothing in this Section extends to make valid the solemnization of any marriage that has before the first day of August, 1937, been declared invalid or dissolved by any court or where the parties to the marriage, or either of them, subsequently contracted valid marriage according to law.

(2) The issue of every marriage, the solemnization of which is validated by this Section, shall for all purposes be deemed to be and to have been legitimate from the time of birth, but nothing in this subsection affects any right, title or interest in or to property where the right, title or interest has vested in any person prior to the first day of August, 1937.

(3) No marriage solemnized in the Province before, on or after the thirteenth day of April, 1940, by a person registered under this Act is invalid by reason of such person not having had at the time of registration the qualifications entitling such person to be registered. R.S., c. 436, s. 10; 1996, c. 23, s. 43.

Validation of certain marriages

11 (1) Notwithstanding this or any other Act, no marriage solemnized in the Province before, on or after the eleventh day of April, 1956, by a minister, cleric or staff officer in good faith shall be invalid by reason only that the person performing the ceremony was not registered, as authorized to solemnize marriage, under this Act or some other Act of the Province relating to the solemnization of marriage or that that person's registration had been cancelled if the person performing the ceremony had, at the time of performing it, the qualifications entitling that person to be registered.

(2) Nothing in this Section makes valid any marriage that has before the eleventh day of April, 1956, been declared to be invalid or dissolved by any court or where subsequent to the marriage and before the eleventh day of April, 1956, the parties to the marriage, or either of them, contracted another valid marriage. R.S., c. 436, s. 11; 1996, c. 23, s. 43.

Solemnization by Quaker rite

12 (1) Notwithstanding subsection (1) of Section 4 and clause (a) of Section 15, every marriage duly solemnized according to the rites, usages and customs of the Religious Society of Friends, commonly called Quakers, is valid.

(2) All the duties imposed by this Act or by the *Vital Statistics Act* upon a cleric shall with regard to such marriage be performed by the clerk or secretary of the Society or of the meeting at which the marriage is solemnized.

(3) Nothing herein requires the marriage to be celebrated or solemnized by the clerk or the secretary or authorizes the marriage of a person under the age of sixteen years except as provided in this Act. R.S., c. 436, s. 12; 1996, c. 23, s. 43.

Solemnization by Baha'i rite

13 (1) Notwithstanding subsection (1) of Section 4 and clause (a) of Section 15, every marriage duly solemnized according to the rites, usages and customs of the Baha'i Faith is valid.

(2) All the duties imposed by this Act or by the *Vital Statistics Act* upon a cleric shall with regard to such marriage be performed by the secretary of the local incorporated Spiritual Assembly of the Baha'i Faith responsible for the conduct of the marriage ceremony.

(3) Nothing herein requires the marriage to be celebrated or solemnized by the secretary of the local incorporated Spiritual Assembly of the Baha'i Faith, or authorizes the marriage of a person under the age of sixteen years except as provided in this Act. R.S., c. 436, s. 13; 1996, c. 23, s. 43.

ISSUERS OF MARRIAGE LICENSES

Deputy issuers of marriage licenses

14 (1) The Registrar may appoint deputy issuers of marriage licences.

(2) Notwithstanding subsection (1), the Governor in Council may from time to time appoint throughout the Province persons to be deputy issuers of marriage licenses, whose offices shall be so situated that no part of the Province shall be at an inconvenient distance from one of them, and due publicity shall be given by the Governor in Council of such appointments. R.S., c. 436, s. 14; 2010, c. 74, s. 1.

Conditions for valid marriage in Province

15 No marriage in the Province is valid unless

(a) it is solemnized by a person authorized by this Act to solemnize marriage; and

(b) a license has been obtained for the solemnization of the marriage. R.S., c. 436, s. 15.

FORM OF LICENSES

Marriage licenses and certificates

16 (1) Marriage licenses may be in Form A in the Schedule to this Act, or to the like effect.

(2) A certificate in blank that the marriage authorized by any license was duly solemnized shall be indorsed upon every license and another certificate to the like effect attached thereto by way of counterfoil, or in such other manner as to admit of its being easily detached therefrom, and such certificates may be respectively in Form B and C in the Schedule to this Act, or to the like effect.

(3) The Registrar may from time to time sign licenses in blank, which shall then be furnished to the issuers in such numbers as may be required, and every license signed in blank as aforesaid remains valid notwithstanding that the Registrar signing the same has ceased to hold office before it is issued by an issuer to a person applying therefor.

(4) Every issuer shall give to the Registrar a receipt for all blank licenses received by the issuer and shall account to the Registrar for all such licenses.

(5) Marriage licenses in the form in use before the seventeenth day of May, 1919, and signed and sealed in blank before that day by the Lieutenant Governor of the Province or any predecessors in office, remain valid, and may be issued as before that day, anything in this Act to the contrary notwithstanding.

(6) The signature of the Registrar on licenses may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form. R.S., c. 436, s. 16.

APPLICATION FOR LICENSES

Affidavit, certified copies and identification

17 (1) Every person applying for a license shall make an affidavit containing the following particulars:

(a) the full names of the parties to the intended marriage, their residences and conditions of life, whether bachelor, widower, spinster, widow or divorcee, as the case may be, and the occupation of the party making the affidavit;

(b) that the person making the affidavit believes there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage;

(c) the age of the person making the affidavit 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;

(d) where the affidavit indicates that a party to the intended marriage is a divorcee, there shall be attached to and form part of the affidavit a true copy of the decree absolute of divorce dissolving the last marriage of each divorcee or such documentary evidence of dissolution as the Registrar considers satisfactory; and

(e) where the affidavit indicates that a party to the intended marriage is a widower there shall be attached and form part of the affidavit a true copy of the former spouse's death certificate or other documentary evidence of death unless there exists exceptional

or urgent circumstances, sufficient in the issuer's discretion, to justify waiving this requirement.

(2) The affidavit shall further state the facts necessary to enable the issuer to determine whether or not the required consent has been duly given in the case of any party under the age of nineteen years, or whether or not such consent is necessary, and if any such consent has been given in writing shall annex the same to the affidavit.

(3) The affidavit may be in Form D in the Schedule to this Act, or to the like effect, and may be made before the issuer to whom application is made or before a notary public, a justice of the peace or a commissioner for taking affidavits.

(4) In addition to the affidavit required by this Section, the applicant shall produce to the issuer or provide

- (a) certified copies of
 - (i) a valid photo driver's licence,
 - (ii) a birth certificate,
 - (iii) a baptismal certificate,
 - (iv) a passport, or
 - (v) a Canadian citizenship card; and
- (b) one piece of signed identification,

for each party to the intended marriage unless there exists exceptional or urgent circumstances, sufficient in the issuer's discretion, to justify waiving these requirements. R.S., c. 436, s. 17; 1999, c. 4, s. 31.

Fee

18 The fee payable upon the issue of a marriage license is such amount as is determined by the Governor in Council by regulation. R.S., c. 436, s. 18.

Issue of license

19 (1) Upon the applicant paying the fee and meeting the requirements described in Section 17, the issuer shall fill up one of the blank forms of license with

- (a) the names, residences and additions of the parties to the intended marriage; and
- (b) the exact date on which the license is issued,

and shall subscribe the same with his own name, and the license is then deemed to be issued.

(2) *repealed 2013, c. 28, s. 1.*

(3) No license shall be used for any marriage other than for the particular marriage specified therein. R.S., c. 436, s. 19; 1999, c. 4, s. 32; 2013, c. 28, s. 1.

Consent required where minor

20 (1) Except as herein provided, where either party to an intended marriage is under the age of nineteen years and is not a widow, widower or divorcee, the issuer shall not issue a license unless there is filed with the issuer the written consent of

- (a) both parents of the party, if living, unless
 - (i) the custody of the party has been granted to one of the parents or to another person or the conditions in clause (d) exist,
 - (ii) one of the parents has been found by a competent court to be mentally incompetent or is a patient in an institution for the treatment of mental illness,
 - (iii) one of the parents is living separate and apart from the other parent and the party and is not maintaining them or contributing to their support, or
 - (iv) the party is an illegitimate child;
- (b) the surviving parent where one parent is dead, the parent who has had custody of the party granted to him, the parent other than the one referred to in subclause (ii) or (iii) of clause (a) or the mother where the party is an illegitimate child unless
 - (i) such parent has been found by a competent court to be mentally incompetent or is a patient in an institution for the treatment of mental illness, or
 - (ii) the custody of the party has been granted to another person or the conditions in clause (d) exist;
- (c) the guardian of the party or the person having custody of the party under an order of a court of competent jurisdiction where both parents are dead or prevented by clause (a) or (b) from giving consent or where the surviving parent is so prevented; or
- (d) the Minister of Community Services, a children's aid society or a family and children's service if the party is, under the *Children's Services Act*, committed to the care and custody of the Minister, the society or the service,

and the issuer has satisfied himself of the genuineness of the consent and the authority to give consent of the person giving it.

- (2) Where the issuer is satisfied that
 - (a) both parents of the party are dead, absent from the Province or prevented under subsection (1) from giving consent;

(b) no guardian of the party has been appointed and no person has been granted custody of the party; and

(c) the party is not committed to the care and custody of the Minister of Community Services, a children's aid society or a family and children's service,

the issuer may issue the license without a written consent.

(3) Where an issuer has refused to issue a license on the ground that a necessary consent has not been given, the party in respect of whom the license is sought may, without the intervention of a guardian *ad litem*, apply to a judge of the county court of the district in which the party resides or to a judge of the Family Court for an order that the license be issued.

(4) The judge may hear the application in a summary way and if the judge is satisfied that

(a) consent to the proposed marriage is not required; or

(b) the person whose consent is required has given written consent to the proposed marriage,

the judge may order the issue of the license applied for, and upon receipt of a certified copy of the order the issuer shall issue the license.

(5) Where a person whose consent is required under subsection (1) is unable to give consent because of illness or refuses to give consent or it is uncertain whose consent is required, the party in respect of whom the license or permit is sought may, without the intervention of a guardian *ad litem*, apply to a judge of the 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 or to a judge of the Family Court for an order dispensing with consent.

(6) The judge may hear the application in a summary manner and if the judge is of the opinion that the proposed marriage is a proper one and is satisfied that

(a) the person whose consent is required is unable because of illness to give consent;

(b) the consent is unreasonably or arbitrarily refused;

(c) the person whose consent is required is not interested in the maintenance or well-being of the party in respect of whom the license is sought; or

(d) it is uncertain whose consent is required,

the judge may order that the consent be dispensed with.

(7) When a certified copy of the order is filed with the issuer, the issuer may issue the license. R.S., c. 436, s. 20.

Marriage under age sixteen

21 (1) Except as provided in subsection (2), no marriage of any person under the age of sixteen years shall be solemnized nor shall any license therefor be issued or authorized to be issued.

(2) Where, on application to a judge of the Family Court, a marriage is shown to be expedient and in the interests of the parties, the judge may in his discretion make an order authorizing the solemnization of and the issuing of a license for the marriage of any person under the age of sixteen years.

(3) When a certified copy of an order made pursuant to subsection (2) is filed with the issuer and any other consent or authorization required by this Act is filed with the issuer, the issuer may issue the license. R.S., c. 436, s. 21; revision corrected 2002.

REQUIREMENTS AT SOLEMNIZATION**Required notice and witnesses**

22 (1) No person shall solemnize any marriage unless that person has, not less than three days before such solemnization, received notice of the names, places of residence, occupation, age and conjugal condition of the parties to the intended marriage, except upon the production of evidence satisfactory to that person that there exist exceptional and urgent circumstances, sufficient in that person's discretion to justify the earlier solemnization of such marriage.

(2) Subsection (1) shall not apply to any marriage solemnized between persons, either of whom has landed at any port in the Province from overseas with the intention of being married upon arrival at the said port.

(3) Every marriage shall be solemnized in the presence of at least two witnesses, each of whom shall be at least sixteen years of age. R.S., c. 436, s. 22.

Solemnization of marriage by a judge or justice

23 (1) A judge or a justice of the peace designated by the Minister may solemnize a marriage for which a marriage license has been issued.

(2) No particular form of ceremony is required in a marriage that is solemnized by a judge or a justice of the peace designated by the Minister except that in some part of the ceremony, in the presence of the judge or justice and witnesses, each of the parties shall declare

I do solemnly declare that I do not know of any lawful impediment why I, *A.B.*, may not be joined in matrimony to *C.D.*

and each of the parties shall say to the other

I call upon all persons present to witness that I, *A.B.*, do take thee, *C.D.*, to be my lawful wedded (wife or husband)

after which the judge or justice shall say

By virtue of the authority vested in me by the *Solemnization of Marriage Act*, I hereby pronounce you, *A.B.* and *C.D.*, to be husband and wife

provided that, if the judge or justice adds other words to the ceremony, no expression shall be used in the ceremony that means or implies that the marriage is not to the exclusion of all other spouses while both of the parties are alive.

(3) Where a judge or justice of the peace designated by the Minister solemnizes a marriage, the judge or justice shall charge a fee in the circumstances and in the amount determined by regulation.

(4) If the parties to a marriage solemnized by a judge or a justice of the peace designated by the Minister desire a religious ceremony in addition thereto, a certificate of the judge or justice that the judge or justice has solemnized the marriage is sufficient authority to a cleric to perform a religious ceremony.

(5) Section 25 of this Act and Sections 15 and 16 of the *Vital Statistics Act* do not apply to a religious ceremony of marriage of persons that is performed after their marriage has been solemnized by a judge or a justice of the peace designated by the Minister pursuant to this Section. 1996, c. 23, s. 42.

Duty of person who solemnizes marriage

24 (1) Immediately after the solemnization of any marriage, the person solemnizing the same shall comply with the following requirements:

(a) fill the blanks in the form of certificate indorsed upon the license with

(i) the names of the parties to the marriage and the residence and additions of the parties, respectively,

(ii) the date at which the marriage was solemnized,

(iii) the place of solemnization,

(iv) the religious body or denomination according to the rites of which the marriage was solemnized, if the marriage was solemnized by a cleric,

(v) the names and addresses of two witnesses to the marriage,

and subscribe the same with the name of the person solemnizing the marriage and, if the marriage was solemnized by a cleric, the religious denomination to which that person belongs;

(b) fill up the blanks in the form of certificate attached to the license with the particulars in this Section mentioned, and also with the date and place of issue of the license under which the marriage was solemnized, and subscribe the same with the name of the person solemnizing the marriage and, if the marriage was solemnized by a cleric, the religious denomination to which that person belongs, and when so filled up and signed detach the certificate from the license and give it to one of the parties to the marriage; and

(c) fill up a form, to be known as the marriage register, with the following particulars:

- (i) the date of the marriage,
- (ii) the place thereof,
- (iii) the names, ages, conditions, religious denominations, occupations, places of residence and places of birth of the parties to the marriage, and
- (iv) the names of the parents of such parties,

and, when so filled up, signed by the two witnesses to the marriage, with their addresses, by the parties to the marriage and by the person who solemnized the marriage and, if that person is a cleric, stating the religious denomination to which that person belongs.

(2) Nothing in this Section shall be construed to interfere with the keeping by any cleric of any marriage register that the cleric is otherwise required to keep or thinks proper to keep.

(3) The marriage certificate and marriage register may be in Forms C and E in the Schedule to this Act, or to the like effect. R.S., c. 436, s. 24; 1996, c. 23, s. 43.

Return of documents to issuer

25 A person who solemnizes a marriage shall within forty-eight hours thereafter return to the issuer, by whom the license for the marriage was issued, the marriage register in respect of the marriage, filled up with the particulars and signed as required by Section 24, together with any certificate issued under clause (a) of subsection (1) of Section 24 and the license for the marriage with the certificate indorsed thereon completed with the particulars and signed as required by Section 24. R.S., c. 436, s. 25.

RETURN BY ISSUERS

Record of issuer

26 Every issuer shall keep a record in which the issuer shall enter

- (a) the date of every license issued by the issuer;
- (b) the parties to the intended marriage;

- (c) the date at which the license was returned to the issuer;
- (d) the particulars of the marriage as set out in the marriage register returned to the issuer. R.S., c. 436, s. 26.

Duty of issuer to ascertain marriages entered

27 Every issuer shall, so far as is within the issuer's power, ascertain the several marriages occurring in the issuer's vicinity and procure the person solemnizing them to fill up marriage registers for such marriages and return the same to such issuer. R.S., c. 436, s. 27.

Returns by issuer

- 28** Every issuer shall on Saturday of every week return to the Registrar
- (a) all the licenses issued by the issuer and returned to the issuer, with the certificate of marriage indorsed thereon, during that week;
 - (b) all affidavits considered by the issuer on the issue of licenses during that week;
 - (c) all orders dispensing with consent filed with the issuer during that week;
 - (d) all marriage registers returned to the issuer; and
 - (e) an exact list of the documents returned, signed by the issuer,

and shall with the return remit to the Registrar the full amount of fees on all licenses issued by the issuer, retaining, in respect of each license issued by the issuer for the issuer's own fees thereon, such amount as is determined by the Governor in Council by regulation. R.S., c. 436, s. 28.

FORMS**Forms**

29 The forms in the Schedule to this Act, or to the like effect, are sufficient for the purposes for which they are provided, but the Governor in Council may from time to time change or vary any of such forms and may prescribe new ones not inconsistent with this Act for facilitating or rendering uniform the duties herein prescribed. R.S., c. 436, s. 29.

Preparation and distribution of blank forms

30 The Registrar shall prepare blank forms of the affidavit, marriage register and marriage certificates prescribed by this Act and distribute the same to the issuers, who shall furnish blank forms of marriage registers and marriage certificates to clerics on application. R.S., c. 436, s. 30; 1996, c. 23, s. 43.

GENERAL PROVISIONS

Mark of person unable to write

31 Where any person, whose signature is required by any of the provisions of this Act, is unable to write, that person's mark, made in the presence of and attested by the issuer or other witness, is sufficient. R.S., c. 436, s. 31; revision corrected 1997.

Error in register

32 If any error is found to have been committed in the entry of any marriage in any marriage register, the person discovering the same shall forthwith give information thereof to the nearest issuer and such issuer is hereby authorized and required to investigate the circumstances of the case and, if satisfied that an error has been committed in any such entry, it is lawful for such person to correct the erroneous entry according to the truth of the case by an entry on the margin of the marriage register, without any alteration of the original entry. R.S., c. 436, s. 32.

Regulations

33 (1) The Governor in Council may make regulations

- (a) to determine the fee to be paid for a marriage license;
- (b) to determine the amount to be retained by an issuer of a marriage license out of the fee to be collected by the issuer;
- (c) to determine the fee to be charged by a judge of the county court or the Family Court for solemnizing a marriage in the judge's chambers or office or in a courtroom;
- (d) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 436, s. 33.

PENALTIES

Penalty for solemnizing under improper license

34 Every person who solemnizes a marriage, and every person who counsels or procures any person to solemnize any marriage, under a license which has not been filled up and subscribed by an issuer in the manner prescribed by this Act, is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 34.

Penalty for alteration of license after issue

35 Every person who alters or assists in altering any marriage license after the same has been issued is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 35.

Penalty for solemnizing under wrong license

36 Every person who solemnizes, or assists in solemnizing, any marriage, under a marriage license issued for another marriage, is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 36.

Penalty for solemnization by unauthorized person

37 A person who solemnizes a marriage and who was not at the time of the marriage authorized by this Act to solemnize marriage is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 37.

Penalty for failure to return documents to issuer

38 (1) Every person who does not within forty-eight hours after the solemnization of a marriage by that person, or, in case of that person's absence from home or illness, then within ten days after the return or recovery, return to the issuer by whom the license was issued the marriage register with the particulars respecting the marriage by this Act required with the license thereof and the certificate on the license indorsed and filled up with the particulars by this Act required is liable to a penalty of four dollars and to a further penalty of ten cents for each day during which the neglect continues.

(2) Penalties imposed under subsection (1) are for the use of the issuer to whom the return should have been made. R.S., c. 436, s. 38.

Penalty for neglect of duty by issuer

39 Every issuer who

- (a) parts with or allows to go out of the issuer's possession any marriage license except as in this Act is provided;
- (b) loses or injures any license, marriage register or other document in the issuer's possession under this Act;
- (c) does not within the periods prescribed by this Act make any of the several returns which by this Act the issuer is required to make; or
- (d) neglects or refuses to make any entry or perform any duty which the issuer is by this Act required to make or do,

is for each offence liable to a penalty of four dollars and, in case of a conviction for not making a return, to a further penalty of ten cents for every day during which any such return is delayed after the time at which the same should be made. R.S., c. 436, s. 39.

Penalty for false return by issuer

40 An issuer who knowingly makes a false return of licenses sold by the issuer is liable for each false return to a penalty not exceeding one hundred dollars. R.S., c. 436, s. 40.

Penalty for falsifying marriage register

41 Every person who, knowing the same to be false, makes or causes to be made, for the purpose of being inserted in any marriage register, any false statement touching any of the particulars in this Act required to be stated therein is liable to a penalty not exceeding two hundred dollars. R.S., c. 436, s. 41.

Sending false statement of marriage for publication

42 Every person who, knowing the same to be false, sends to any newspaper publisher or other person, for publication in any newspaper in this Province, a false statement of the marriage of any person, is liable to a penalty of one hundred dollars. R.S., c. 436, s. 42.

Disposition of penalty

43 Every penalty by this Act imposed, that is not stated to be for the use of an issuer, shall if recovered be applied, one half to the Province and one half to the city, town or municipality in which the offence, in respect of which the prosecution is instituted, took place. R.S., c. 436, s. 43.

SAVINGS AS TO FORMER MARRIAGES

Marriages before July 5, 1906

44 (1) Every marriage solemnized in this Province in good faith before any cleric or minister of any religious denomination on or before the fourth day of July, 1906, in the presence of one or more witnesses, and the parties to which have cohabited together as man and wife, is deemed and is hereby made valid, notwithstanding any want of legal authority in such cleric or minister to solemnize such marriage and notwithstanding any want of license or of publication of banns under which such marriage was had or any legal objection thereto, provided that nothing herein contained has the effect of confirming or rendering valid any marriage between parties who were not legally capable of entering into the marriage contract by reason of consanguinity, affinity, prior marriage or otherwise.

(2) The issue of all marriages hereby confirmed or rendered valid are declared to be and are made legitimate to all intents and purposes, and the rights of parties claiming under any such issue are the same to all intents and purposes as if the marriage hereby confirmed had been valid and legal at the time of the solemnization thereof. R.S., c. 436, s. 44; 1996, c. 23, s. 43; revision corrected 1997.

Declaration of invalidity of marriage

45 (1) Where a form of marriage has been or is gone through between persons, either of whom is under the age of eighteen years, without the consent required by Section 20, the Supreme Court, notwithstanding that a license or permit was granted or that publication of banns was made, and that the ceremony was performed by a person authorized by law to solemnize marriage, has jurisdiction and power in an action brought by either party, who was at the time of the ceremony under the age of eighteen years, to declare and adjudge that a valid marriage was not effected or entered into, provided that such persons have not after the cere-

mony cohabited and lived together as husband and wife and that the action is brought before the person bringing it has attained the age of nineteen years.

(2) Nothing in this Section applies where after the ceremony there has occurred that which if a valid marriage had taken place would have been a consummation thereof.

(3) The Supreme Court is not bound to grant relief in cases provided for in this Section where carnal intercourse has taken place between the parties before the ceremony. R.S., c. 436, s. 45; revision corrected 1997.

Requirement for trial

46 (1) No declaration or adjudication that a valid marriage was not effected or entered into shall in any case be made or pronounced upon consent of parties, admissions or in default of appearance or of pleading or otherwise than after a trial.

(2) At every such trial the evidence shall be taken *viva voce* in open court, but nothing in this subsection prevents the use of depositions of witnesses residing out of the Province or of witnesses examined *de bene esse* where according to practice of the Court such depositions may be read in evidence.

(3) The Court may of its own motion require both or either of the parties to be examined before the Court touching the matters in question in the action. R.S., c. 436, s. 46.

SCHEDULE

Form A

MARRIAGE LICENSE

Whereas, of in the County of and Province of and of in the County of and Province of are determined to enter into the contract of marriage, and are desirous of having their marriage solemnized in accordance with the *Solemnization of Marriage Act*;

I do hereby grant this license, as well to them the said parties contracting, as to all or every person authorized to solemnize marriage under the *Solemnization of Marriage Act*, to solemnize and perform the marriage within the Province of Nova Scotia;

Provided always that, by reason of any affinity, consanguinity, prior marriage or other lawful cause, there is no legal impediment in this behalf; but if otherwise, this license is null and void to all intents and purposes whatsoever.

Issued this day
of, 19....., at
..... in the County of
.....
.....

Given under my hand
and the Seal of the
Registrar General, of
Halifax
.....

Issuer of Marriage Licenses

Deputy Registrar General

Form B

CERTIFICATE

I hereby certify that the within named persons of and of were married under the within license at on the day of, 19.

By me,

.....

.....
Clergy [Clerics]
(state denomination),
County Court Judge or
Family Court Judge

In the presence of of in the County of and of in the County of

After solemnization of the marriage, this license, duly executed, must be forwarded within forty-eight hours to the issuer by whom the license was issued.

Form C

CERTIFICATE OF MARRIAGE

This is to certify that, on the day of, 19., at in the Province of Nova Scotia, I solemnized the marriage of and under marriage license issued on the day of, 19.

Witnesses
(signature of person
solemnizing the marriage)

.....
Clergyman [Cleric]
(state denomination),

County Court Judge or
Family Court Judge
.....
(address)

Form D

FORM OF AFFIDAVIT

I,, of in the County of
(occupation)

make oath and say as follows:

1. I, and, of in the County
(occupation)

of are desirous of entering into the contract of marriage and of having our marriage solemnized at in the County of by the Reverend or some other cleric.

2. I am the full age of years and the said is of the full age of years.

3. I am a and the said
(bachelor; widower; divorcee; spinster; widow)
. is a
(bachelor; widower; divorcee; spinster; widow)

(Paragraphs 4 and 5 apply only if either or both parties are under the age of 19 years and such party or parties are not a widower, widow or divorcee.)

4. (a) of in the County of is the proper person to consent to my marriage for the following reasons:
. and written consent is attached hereto.
(his or her)

(b) A written consent is not required for my marriage for the following reasons:
.

5. (a) of in the County of is the proper person to consent to the marriage of the said for the following reasons:
. and written consent is attached hereto.
(his or her)

(b) A written consent is not required for the marriage of the said for the following reasons:
.

6. I believe that there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of my marriage to the said

Sworn to at in the
County of this
. day of,
19, before me.
(signature of deponent)

.....
Deputy Issuer of Marriage
Licenses, or Notary Public

Form E

MARRIAGE REGISTER

Form
Province
Registered No.
(for use of Deputy Registrar General only)

County or District
Municipality or Town

BRIDEGROOM

Full name
(surname given name)
Occupation
Bachelor, widower or divorced
Age Religious denomination
Residence
*(If in Canada, province, county and post office address
If foreign, country.)*
Place of birth
Name of father
Place of birth of father
Maiden name of mother
Can bridegroom read? Write?

BRIDE

Full name
(surname given name)
Occupation
Spinster, widowed or divorced
Age Religious denomination
Residence
*(If in Canada, province, county and post office address.
If foreign, country.)*
Place of birth
Name of father
Place of birth of father
Maiden name of mother
Can bride read ? Write ?
Date of this marriage: month day, 19.....
Place of marriage
Number of license
Groom
Signature: Bride
Name

Address
 Witness: Name
 Address

Signature, address and religious denomination of person solemnizing marriage:

The above stated particulars are true to the best of my knowledge and belief.

Clergyman [Cleric]
 Address
 Religious denomination

Filed at this office this day of, 19.

.....
(signature of issuer of marriage licenses)

R.S., c. 436, Sch.; 1996, c. 23, s. 43.
