

MARRIAGE ACT
[RSBC 1996] CHAPTER 282

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Definitions

1 In this Act:

"chief executive officer" means the chief executive officer under the *Vital Statistics Act*;

"Doukhobor" means

(a) a person exempted or entitled to claim exemption, or who, on production of a certificate, might have become or would now be entitled to claim exemption, from military service because of the order of the Governor in Council of December 6, 1898, and

(b) a descendant of any such person, whether born in British Columbia or elsewhere;

"issuer of marriage licences" or **"issuer"** means

(a) an issuer of marriage licences appointed under this Act, or

(b) a marriage commissioner acting as an issuer of marriage licences;

"marriage commissioner" or **"commissioner"** means a marriage commissioner appointed under this Act;

"marriage register" means a book kept for the registration of marriages under section 25;

"registration district" means a registration district under the *Vital Statistics Act*;

"religious body" means any church, or any religious denomination, sect, congregation or society;

"religious representative" means a person duly authorized to solemnize marriage according to the rites and usages of the religious body to which the person belongs and includes a person registered under section 2 (7).

"vital statistics registrar" means a vital statistics registrar under the *Vital Statistics Act*.

Registration of religious representatives to solemnize marriage

2 (1) On application, in the form required by the chief executive officer, the chief executive officer may register any religious representative as authorized to solemnize marriage.

(2) The application on behalf of a religious representative must be made by the governing authority with jurisdiction in British Columbia over the religious body to which the religious representative belongs.

(3) The wording of the form required by the chief executive officer may be varied according to the facts, to set out other qualifications for registration recognized by this Act.

(4) The chief executive officer may

(a) issue to the governing authority one or more certificates of registration in respect of each religious representative registered under this Act, and

(b) include in one certificate the names of any number of registered religious representatives who belong to the same religious body.

(5) The chief executive officer must keep a register showing

(a) the name of every religious representative registered,

(b) the name of the religious body to which the religious representative belongs, and

(c) the date of the religious representative's registration.

(6) The chief executive officer must issue a certificate of registration to each religious representative registered under this Act.

(7) The chief executive officer may register a person as a religious representative if the chief executive officer is satisfied that

(a) the doctrines of a religious body do not contemplate a religious representative for the religious body, and

(b) the appropriate governing body of the religious body has designated a person to act in the place of a religious representative to perform all the duties imposed by this Act on a person solemnizing a marriage, other than solemnizing the marriage, in respect of marriages performed according to the rites and usages of the religious body.

Qualifications for registration

3 (1) A person must not be registered as a religious representative unless the chief executive officer is satisfied as follows:

(a) that the person is a religious representative ordained or appointed according to the rites and usages of the religious body to which he or she belongs, or is by the rules of that religious body deemed an ordained or appointed religious representative because of some earlier ordination or appointment;

(b) that the person

(i) is, as a religious representative, in charge of or officiating in connection with a congregation, branch or local unit in British Columbia of the religious body to which he or she belongs, or

(ii) is a resident in British Columbia who was formerly in charge of or officiating in connection with a congregation, branch or local unit in British Columbia, has been superannuated or placed on the supernumerary list, or is a retired religious representative in good standing of the religious body to which he or she belongs;

(c) that the person is, as a religious representative, recognized by the religious body to which he or she belongs as authorized to solemnize marriage according to its rites and usages;

(d) that 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 chief executive officer, the registration of its religious representatives as authorized to solemnize marriage.

(2) If a religious representative is in British Columbia temporarily, and, if resident and officiating in British Columbia, might be registered under subsection (1) as authorized to solemnize marriage, the chief executive officer may register the person as authorized to solemnize marriage during a period to be set by the chief executive officer.

(3) A certificate of registration issued under subsection (2) must state the period during which the authority to solemnize marriage may be exercised.

Cancellation of registration

4 (1) With or without a hearing, the chief executive officer may cancel the registration of a person authorized under this Act to solemnize marriage if the chief executive officer is satisfied that the person

(a) has failed to observe and perform the duties referred to in section 26, or

(b) has ceased to possess the qualifications entitling the person to be registered.

(2) On cancellation of the registration, the person whose registration is cancelled ceases to have authority to solemnize marriage under this Act.

(3) The chief executive officer must mail notice of the cancellation at once by registered mail to the person whose registration is cancelled, addressed to the person's last known address in British Columbia.

(4) Immediately on receipt of the notice of cancellation, a person who is notified under subsection (3) must deliver his or her certificate of registration to the chief executive officer for cancellation.

(5) A religious body whose religious representatives are registered under this Act as authorized to solemnize marriage must notify the chief executive officer, in the form required by the chief executive officer, of the name of every religious representative registered who

(a) has died,

(b) has ceased to reside in British Columbia, or

(c) has in any other way ceased to possess the qualifications entitling the religious representative to be registered.

Appeal from decision of chief executive officer

5 (1) If the chief executive officer refuses the application made on behalf of a person for registration under this Act as a religious representative authorized to solemnize marriage, or if the chief executive officer cancels the registration of any religious representative, the person or the religious representative may appeal from the refusal or cancellation on a question of law to the Supreme Court within 3 months after the refusal or cancellation.

(2) On an application by the person or the religious representative, the court may direct the procedure to be followed in the appeal.

(3) The court may

(a) make an order confirming the refusal or cancellation of registration appealed from, or

(b) order the chief executive officer to grant the application for registration or to reinstate the registration of the religious representative.

(4) An order under subsection (3) is final, and the chief executive officer must give effect to the order.

In matters not provided for law of England prevails

6 Subject to this Act and any Act of Canada in force in British Columbia, the law of England as it existed on November 19, 1858 prevails in all matters relating to the following:

- (a) the mode of solemnizing marriages;
- (b) the validity of marriages;
- (c) the qualification of parties about to marry;
- (d) the consent of guardians or parents, or any person whose consent is necessary to the validity of a marriage.

Authority to solemnize marriage

7 (1) A religious representative registered under this Act as authorized to solemnize marriage has and may exercise authority to solemnize marriage in accordance with this Act between any 2 persons neither of whom is under a legal disqualification to contract marriage.

(2) The registration of a religious representative under this Act, by the insertion of his or her name in the register kept by the chief executive officer, is conclusive evidence

- (a) that all the requirements of this Act in respect of registration and of matters precedent and incidental to registration have been complied with, and
- (b) that the religious representative, so long as his or her registration remains in force, is a religious representative authorized to solemnize marriage.

(3) Despite any law to the contrary, a person must not solemnize any marriage unless he or she is at the time a

- (a) religious representative registered under this Act as authorized to solemnize marriage, or
- (b) a marriage commissioner acting under this Act.

Licence requirement

8 A religious representative may solemnize marriage only under a licence issued under this Act.

Requirements as to witnesses and public ceremony

9 (1) All marriages solemnized under this Act by a religious representative must be in the presence of 2 or more witnesses besides the religious representative.

(2) The ceremony must be performed in a public manner, unless otherwise permitted by licence.

(3) Both parties to the marriage must be present in person at the ceremony.

Marriage performed by person registered under section 2 (7)

10 If a person registered under section 2 (7) performs all the duties imposed by this Act on a person solemnizing a marriage, other than solemnizing the marriage, in respect of a marriage performed according to the rites and usages of the religious body for which the person is registered, the marriage is as valid as one performed by a religious representative.

Validation of solemnization of marriage by declaration of chief executive officer

11 (1) The chief executive officer may sign a written declaration waiving the requirements of this Act as to registration of a religious representative in respect of a marriage if the chief executive officer is satisfied by an affidavit that

(a) the marriage has been solemnized in British Columbia in good faith and intended compliance with this Act by a religious representative who was not registered as authorized to solemnize marriage, and in ignorance of the requirements of this Act,

(b) neither of the parties to the marriage was at the time under any legal disqualification to contract the marriage,

(c) the parties after that lived together and cohabited as husband and wife,

(d) neither of the parties has since contracted valid marriage according to law, and

(e) the validity of the marriage has not been questioned by action in any court.

(2) When a declaration is signed under subsection (1), the solemnization of the marriage is deemed for all purposes to be and have been lawful and valid from the date of the solemnization.

Doukhobor marriages

12 Subject to section 13, nothing in this Act is to be construed as in any way preventing Doukhobors from solemnizing, according to the rites and ceremonies of

the Doukhobor religion, a marriage between any 2 persons, neither of whom is under any legal disqualification to contract marriage and either or both of whom are Doukhobors.

Proclamation and record of Doukhobor marriage

13 (1) When a marriage is to be solemnized under section 12, a parent of one of the persons to be married must proclaim the intended marriage openly in an audible voice at 2 successive meetings or gatherings of Doukhobors within the area of the Province where at least one of the parties to the intended marriage has resided for the preceding 8 days.

(2) If no parent is willing and able to proclaim the intended marriage, the proclamation may be made by the next of kin of either of the parties to the intended marriage.

(3) If no parent is willing and able to proclaim the intended marriage and no next of kin of either of the parties to the intended marriage is willing and able to proclaim the intended marriage, the proclamation of the intended marriage may be made by any person authorized by the parties to the intended marriage.

(4) At least 7 days before the date on which the marriage is to be solemnized, a person who has proclaimed an intended marriage under this section, or a person on their behalf, must provide the chief executive officer with a declaration, in a form acceptable to the chief executive officer, of the proclamation of the intended marriage.

(5) Immediately after the solemnization of the marriage, one of the spouses must make a written record of the solemnization and send the record to the chief executive officer.

(6) The record must be signed by both parties to the marriage and by 2 witnesses.

Inquiry into and validation of Doukhobor marriages

14 (1) The Lieutenant Governor in Council may designate a marriage commissioner to receive and inquire into applications for recognition of marriages contracted in accordance with the rites and ceremonies of the Doukhobor faith or creed.

(2) A marriage commissioner designated under subsection (1) has for the purposes of this section the powers and duties of a commissioner appointed under the *Inquiry Act*.

(3) On being satisfied that a marriage has been validly entered into and solemnized in accordance with the rites and ceremonies of the Doukhobor faith or creed, the marriage commissioner must submit a report to this effect to the Chief executive officer.

(4) On the direction of the chief executive officer, the marriage commissioner must register in accordance with section 25 a marriage in respect of which a report has been made under subsection (3) and prepare a record of the registration and deliver it to the chief executive officer under section 15 or 16 of the *Vital Statistics Act*.

(5) For the purposes of subsection (4) a memorandum made under section 25 of this Act or a record prepared under section 15 or 16 of the *Vital Statistics Act* need not be signed

(a) by 2 credible witnesses, or

(b) if one of the parties to the marriage is deceased, by more than one party to the marriage.

(6) On the registration of a marriage by the chief executive officer under the *Vital Statistics Act*, the marriage is deemed to have been valid from the date of its solemnization.

(7) Nothing in this section makes the solemnization of a marriage valid if

(a) the marriage has been declared invalid or dissolved by a court, or

(b) either of the parties to the marriage subsequently contracted a valid marriage to a person other than the other party to the marriage, according to law.

(8) The child of a marriage, the solemnization of which is validated by this section, is for all purposes deemed to be and to have been legitimate from the time of birth.

(9) Nothing in subsection (8) affects any right, title or interest in or to property if the right, title or interest vested in any person before April 11, 1946.

Issue of licences

15 (1) Subject to section 17, a religious representative must not solemnize a marriage under this Act unless the persons intending to marry possess a marriage licence that, under subsection (3), permits the religious representative to marry them.

(2) An issuer of a marriage licence may issue the licence if the application complies with section 16 and the applicants pay the prescribed fee.

(3) A marriage licence must

(a) bear the date on which it is issued, and

(b) authorize the solemnization of the marriage of the persons named in it at any time within 3 months after it was issued.

Application for licence

16 (1) An application for a marriage licence must be made by filing with the issuer of marriage licences an affidavit, in the form required by the chief executive officer.

(2) The affidavit must be made

(a) before the issuer by one of the persons intending to marry, or

(b) if neither of them can conveniently attend before the issuer, before any person authorized by law to receive affidavits, in which case it must state the reason relied on to excuse personal attendance before the issuer.

(3) Until the licence is issued, the affidavit under subsection (1) or (2) must be kept by the issuer in the issuer's office.

(4) If the issuer of marriage licences is not satisfied as to the correctness of the statements made in any affidavit filed under subsection (1), the issuer may require the production of further affidavits or other evidence to the issuer's satisfaction before issuing the licence.

(5) In addition to the evidence required under subsections (1) and (4), the issuer of marriage licences may

(a) require the production of witnesses to identify the persons intending to marry, and

(b) examine under oath or otherwise the persons intending to marry or other witnesses respecting any matter pertaining to the issue of the marriage licence applied for, as the issuer may consider necessary or advisable.

Unused licence void after 3 months

17 If a marriage is not solemnized within the 3 month period referred to in section 15 (3) (b),

(a) the licence is void, and

(b) the marriage must not be solemnized unless a new licence is obtained.

Protection against irregularities in issuance of licence

18 No irregularity in the issue of a marriage licence obtained and acted on in good faith invalidates a marriage solemnized under it.

Presumption of death

19 (1) If an order has been granted to an applicant under the *Survivorship and Presumption of Death Act*, on fulfillment of any preliminary requirements under this Act, an issuer of marriage licences may issue a licence authorizing the solemnization of a marriage to which the petitioner is an intended party.

(2) A licence must not be issued under subsection (1)

(a) unless the petitioner first delivers to the issuer of marriage licences or marriage commissioner a copy of the order of presumption of death certified by the district registrar or deputy district registrar of the court, and also an affidavit by him or her in the form required by the chief executive officer, and

(b) unless the other party to the intended marriage makes and delivers to the issuer of marriage licences or marriage commissioner an affidavit in the form required by the chief executive officer.

(3) The issuer of marriage licences or marriage commissioner must forward the certified order of presumption of death and both affidavits to the chief executive officer.

(4) The requirements of subsections (2) and (3) are in addition to all other requirements under this Act.

Civil marriage

20 A marriage may be contracted before and solemnized by a marriage commissioner under a licence under this Act and on payment of the prescribed fee if

(a) the marriage is contracted in a public manner in the presence of the marriage commissioner and 2 or more witnesses,

(b) each of the parties to the marriage in the presence of the marriage commissioner and the witnesses declares, "I 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

(c) each of the parties to the marriage says to the other, "I call on those present to witness that I, *A.B.*, take *C.D.* to be my lawful wedded wife (or husband)".

Religious ceremony after civil marriage

21 If any parties married by civil contract by a marriage commissioner desire a religious ceremony in addition, the marriage commissioner's certificate containing a copy of the registration of the marriage of the parties made under section 25 is

sufficient evidence to any qualified religious representative that he or she is authorized to solemnize marriage between those parties.

Marriage of persons previously married to each other

22 (1) A religious representative or marriage commissioner must not solemnize a marriage between 2 parties who have previously been married to, and are not divorced from, each other in accordance with the laws of any country, state or province except

(a) as provided in section 21, or

(b) if an order is issued under subsection (2).

(2) The chief executive officer may issue an order permitting the remarriage of the parties after being satisfied

(a) that an informality exists in the proceedings connected with the previous marriage, or

(b) that the certificate of the previous marriage or the registration of the previous marriage or the marriage register containing the entry of the previous marriage has been lost or destroyed or is unavailable because of circumstances beyond the control of the parties.

(3) The registration of the remarriage and every certificate issued in respect of it shall contain a statement of the date and place of the previous marriage.

Caveats

23 (1) On paying the prescribed fee, a person may lodge a caveat with an issuer of marriage licences against the issuing of a licence for the marriage of a person named in the caveat.

(2) If a caveat is lodged with the issuer, and is signed by or on behalf of the person who lodged it, and states the person's place of residence and the ground of objection on which the caveat is founded, no marriage licence may be issued by the issuer until

(a) the issuer has inquired into the matter of the caveat, and is satisfied that it ought not to obstruct the issuing of the licence, or

(b) the caveat is withdrawn by the person who lodged it.

Appeal from issuer

24 (1) If the issuer decides against the person lodging the caveat, that person may appeal to the chief executive officer, on giving notice of the intention to appeal within 2 clear days after the decision, stating the grounds of the appeal.

(2) The decision of the chief executive officer on the appeal is final, and must be given effect by the issuer.

(3) The issuer may in case of doubt refer the matter of the caveat to the chief executive officer for advice.

Manner of registration

25 (1) When a religious representative or a marriage commissioner solemnizes a marriage he or she must register the marriage by entering a memorandum of it in a book kept by him or her for that purpose under this section or by the religious body to which the religious representative belongs.

(2) The memorandum must be signed

(a) by each of the parties to the marriage,

(b) by at least 2 witnesses, and

(c) by the religious representative or the marriage commissioner who solemnized the marriage.

(3) Books for the registration of marriages under this section must be supplied free of charge by the chief executive officer but remain the property of the chief executive officer's office and must be returned to the chief executive officer on demand or on the holder ceasing to be authorized to solemnize marriage.

(4) The chief executive officer, or a person designated by the chief executive officer, may, during normal business hours and as often as the chief executive officer considers necessary, inspect marriage registers and compare them with the returns of marriages.

(5) If a religious representative in charge of, or officiating in connection with, a congregation, branch or local unit in British Columbia of the religious body to which he or she belongs moves or transfers out of British Columbia, the religious representative must surrender every marriage register issued to him or her under subsection (3)

(a) to his or her successor in the pastoral charge, or

(b) if there is no successor appointed at the time of moving or transferring, to the chief executive officer.

Performance of duties under *Vital Statistics Act*

26 A religious representative and a marriage commissioner by whom a marriage is solemnized must also observe and perform the duties imposed on him or her under the *Vital Statistics Act* respecting the records of the marriage.

Protection of marriage register from loss or injury

27 A person who has custody of a marriage register who negligently loses or injures it, or negligently allows it to be injured, is liable on conviction to a penalty of not more than \$50.

Consent required to marriage of person under 19 years of age

28 (1) Except as provided in subsections (2) to (4), a marriage of a person, not being a widower or widow, who is a minor must not be solemnized, and a licence must not be issued, unless consent in writing to the marriage is first given

(a) by both parents of that person if both are living and are joint guardians, or by the parent having sole guardianship if they are not joint guardians or by the surviving parent if one of them is dead,

(b) if both parents are dead, or if neither parent is a guardian, by a lawfully appointed guardian of that person, or

(c) if both parents are dead, and there is no lawfully appointed guardian, by the Public Guardian and Trustee or the Supreme Court.

(2) If a person whose consent under this section is required to a marriage is outside British Columbia, or unreasonably or from undue motives refuses or withholds consent to the marriage, or if his or her location is unknown and the court is satisfied that the location has not been found after a diligent search, the person in respect of whose marriage consent is required may apply by petition to the Supreme Court for a declaration under this section.

(3) The court must hear the petition in a summary manner, and if the marriage proposed appears on cause shown to be proper,

(a) the court must declare it to be proper, and

(b) the declaration is as effectual for all purposes as if the person whose consent is required had consented to the marriage.

(4) If a person whose consent is required under this section is a mentally disordered person, the Public Guardian and Trustee may consent to the marriage, if the proposed marriage appears to be proper.

(5) Before a licence is issued authorizing the solemnization of the marriage, the consent required by subsection (1) or the declaration of a court under subsections (2) and (3) must be filed

(a) with the issuer of marriage licences, or

(b) if the marriage is to be solemnized by a religious representative after publication of banns, with the religious representative.

(6) A marriage of a minor must not be solemnized, and a licence must not be issued, unless a certificate of birth or other satisfactory proof of age has been produced

(a) to the issuer of marriage licences, or,

(b) if the marriage is to be solemnized after the publication of banns, to the religious representative.

Marriage of person under 16 years of age

29 (1) Except as provided in subsections (2) and (3), a marriage of any person under 16 years of age must not be solemnized, and a licence must not be issued.

(2) If, on application to the Supreme Court, a marriage is shown to be expedient and in the interests of the parties, the court may, in its discretion, make an order authorizing the solemnization of and the issuing of a licence for the marriage of any person under 16 years of age.

(3) An order made under this section is subject to the observance of section 28, and must be filed in a manner similar to that provided in section 28 (5) in respect of a consent or declaration.

Validity of marriages preserved

30 Nothing in section 28 or 29 invalidates a marriage.

Appointment of issuers of marriage licences

31 The minister may appoint a suitable person to be an issuer of marriage licences, with authority to receive and take affidavits for this Act.

Marriage commissioners

32 The minister may appoint marriage commissioners necessary for carrying out this Act.

Remuneration of issuers of marriage licences

33 An issuer of marriage licences who is not a salaried member of the public service is entitled to receive as commission for licences issued by him or her a sum set by the Lieutenant Governor in Council.

Certificates as evidence

34 Every certificate, or copy of any registration or document under this Act, certified by the religious representative, chief executive officer or marriage commissioner extracting it, is evidence of all the matters and things contained in it.

Offences

35 An issuer of marriage licences who issues a licence for a marriage, and a religious representative or marriage commissioner who solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is a mentally disordered person or is impaired by drugs or alcohol, commits an offence and is liable on conviction to a penalty of not more than \$500.

Power to make regulations

36 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.