

IN THE KEYS

**MARRIAGE AND CIVIL  
REGISTRATION (AMENDMENT)  
BILL 2009**

**Explanatory Memorandum**

1. This Bill is promoted by the Treasury. It makes amendments to the Marriage Act 1984 and the Civil Registration Act 1984, with consequential amendments to the Matrimonial Proceedings Act 2003 and to the Adoption Act 1984.

2. *Clause 1* introduces *Schedule 1*, which amends the Marriage Act 1984. The amendments will permit marriage in any place on the Island, in its territorial waters, aboard vehicles on the Island, aboard vessels within its territorial waters, or aboard an aircraft in Manx air-space. It also permits a marriage to take place in the territorial waters of the Island or in Manx air-space where the parties are not aboard a vessel or an aircraft. But marriages in all these new classes of venue will be at the Chief Registrar's discretion, which will be exercisable in accordance with guidance issued by the Clerk of the Rolls. One of the amendments modernises the prohibited degrees for marriage, reflecting changes in England and Wales and also in the jurisprudence of the European Court of Human Rights. It also inserts new sections 20A to 20C into that Act permitting, subject to certain exceptions, the marriage of house-bound and detained persons to take place where they are. A new section A51 of that Act empowers the Governor to validate marriages which would otherwise be void for want of compliance with the formalities. This mirrors a provision in the Civil Partnership Act 2004 (of Parliament) empowering the Lord Chancellor to validate civil partnerships under that Act which would otherwise be void. Sections 51 to 54 of the Marriage Act 1984 have been rewritten to clarify their effect.

3. *Clause 2* introduces *Schedule 2*, which amends the Civil Registration Act 1984. The main effect of the amendments is to create a single registration district for the Island and to make consequential amendments to the Civil Registration Act. It also makes minor amendments in respect of the registration of foundlings and still-births.

4. *Clause 3* introduces *Schedule 3*, which contains consequential amendments. The Schedule amends the Matrimonial Proceedings Act 2003 and the Adoption Act 1984. The amendments to the 2003 Act make provision corresponding to that proposed in relation to the jurisdiction of the High Court in respect of civil partnerships.

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The adoption amendments deal with the manner in which adoption register entries are to be linked to the original birth entries, and the circumstances in which and conditions subject to which access to the original entries may be granted.

**5.** *Clause 4* introduces *Schedule 4*, which contains transitional provisions in consequence of the creation of a single registration district for the Island.

**6.** *Clause 5* introduces *Schedule 5*, which contains repeals.

**7.** *Clause 6* gives the Act its short title, and provides that the provisions of the Act, other than section 6, come into operation in accordance with one or more appointed day orders.

**8.** The changes in respect of the registration of births and deaths are not expected to produce any significant increase or reduction in costs. There will be increased costs in connection with the attendance of registrars at approved places or aboard approved vehicles and vessels to perform marriages, but these will be recovered in the ordinary way from the parties.

**9.** In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

## **Arrangement of Sections**

### Section

1. Amendment of the Marriage Act 1984
2. Amendment of the Civil Registration Act 1984
3. Consequential amendments
4. Transitional provisions
5. Repeals
6. Short title and commencement

### SCHEDULES —

- Schedule 1 — Amendment of the Marriage Act 1984
- Schedule 2 — Amendment of the Civil Registration Act 1984
- Schedule 3 — Consequential amendments of other enactments
- Schedule 4 — Transitional provisions
- Schedule 5 — Repeals

## **A BILL**

to amend the Marriage Act 1984; to simplify marriage procedures; to enable civil marriages to be solemnised in places and circumstances approved by the Chief Registrar; to amend the Civil Registration Act 1984; to abolish registration districts; to make provision about the jurisdiction of the High Court in divorce; and for connected purposes.

**B**E IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

- |    |  |   |
|----|--|---|
| 1. | Schedule 1 contains amendments to the Marriage Act 1984.   | Amendment of the Marriage Act 1984<br>[c. 13]           |
| 2. | Schedule 2 contains amendments to the Civil Registration Act 1984.                                   | Amendment of the Civil Registration Act 1984<br>[c. 12] |
| 3. | Schedule 3 contains consequential amendments.  | Consequential amendments                                |
| 5  | 4. Schedule 4 contains transitional provisions.  | Transitional provisions                                 |
| 5. | The enactments specified in column 1 of Schedule 5 are repealed to the extent specified in column 3. | Repeals   |

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Short title and  
commencement

**6.** (1) This Act may be cited as the Marriage and Civil Registration (Amendment) Act 2010.

(2) This Act, other than this section, shall come into operation on such day or days as the Treasury may by order appoint and different days may be appointed for different provisions and for different purposes. **5**

(3) An order under subsection (2) may include such incidental, transitional and transitory provisions including adaptations and modifications of —

(a) the provisions of this Act then in operation or brought into operation by the Order; and **10**

(b) the provisions repealed by this Act whose repeal is not then in operation or brought into operation by the Order,

which appear to the Treasury to be necessary or expedient in consequence of the partial operation of this Act. **15**

SCHEDULES

Section 1 SCHEDULE 1

*Amendments to the Marriage Act 1984 (c.13)*

1. For section 1 (marriage within prohibited degrees) substitute —

“Marriage within prohibited degrees  
P2004/33/3 & SI 2007/438

1. (1) A marriage solemnized between two people is void if —

- (a) they are of the same gender;
- (b) either of them is lawfully married; or
- (c) one of them falls within the list in paragraph 1 of Schedule 1 in relation to the other.

(2) A marriage solemnised between two people is void if one of them falls within the list in paragraph 2 of that Schedule in relation to the other, unless —

- (a) they have both attained the age of 21 at the time of the marriage; and
- (b) the younger has not at any time before attaining the age of 18 been a child of the family in relation to the older.

(3) If it appears to the Council of Ministers to be expedient, in the light of any amendment to, or re-enactment of, the provisions of the Marriage Act 1949 (of Parliament) relating to the prohibited degrees of relationship, to amend this section or Schedule 1 to this Act, it may by order make those amendments. [c.76]

(4) An order under subsection (3) may contain such incidental, consequential, supplemental and transitional provisions, including amendments to other enactments, as the Council of Ministers thinks appropriate.

(5) For the purposes of subsection (1)(a) the gender of a person in respect of whom a full gender recognition certificate has been issued is the acquired gender within the meaning of the Gender Recognition Act 2009.”.

2. In section 3 for “the registrar”, wherever occurring, substitute “a registrar”.

3. For section 4 (hours for solemnization of marriages) substitute —

“When marriages, other than Church of England marriages, may be solemnized

4. (1) A marriage may be solemnized at any time authorised by the person officiating.

(2) Nothing in this section applies to a marriage according to the rites of the Church of England (which may accordingly only take place between the hours of 7 a.m. and 6 p.m. unless authorised by special licence).”.

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**4.** For section 5A (marriage involving a person whose gender has become the acquired gender) substitute —

“Marriages between certain persons **5A.** (1) No cleric shall be obliged to solemnize a marriage falling within subsections (2) to (5).

P 1949/76/  
5A and SI  
2007/438

(2) A marriage falls within this subsection if, but for satisfying the conditions in section 1(2)(a) and (b), it would be void by virtue of that subsection (marriage of close relatives not void if younger spouse not child of the family of elder).

(3) A marriage falls within this subsection if one of the parties is a person —

(a) whose former marriage has been dissolved on any ground; and

(b) whose former spouse is still living.

(4) A marriage falls within this subsection if one of the parties is —

(a) the former spouse of the other’s parent; or

(b) the parent of the other’s former spouse.

(5) A marriage falls within this subsection if one of the parties is a person whose gender the cleric reasonably believes to be the acquired gender within the meaning of the Gender Recognition Act 2009.

(6) No cleric shall be obliged to permit a marriage falling within subsections (2) to (5) to be solemnized in the church or chapel of which the cleric is the incumbent.”.

**5.** In section 6(2) (place of publication of banns) for “although neither of those persons” substitute “, whether or not those persons or one of them”.

**6.** In section 14(1) (licensing of chapels etc) for “by licence in” substitute “in”.

**7.** For section 18(1) (when church or chapel to be treated as usual place of worship) substitute —

“(1) For the purposes of this Part a parish church or public chapel shall be deemed to be the usual place of worship of any person if, and only if, that person is enrolled on the church electoral roll of the parish in which that church or chapel is situated.”.

**8.** (1) Section 19 (marriages which may be solemnized on authority of a registrar’s certificate) is amended as follows.

(2) Renumber the existing text as subsection (1) and at the end add —

“(c) a marriage in an approved place; SCH. 1

(d) a marriage in any other place in the Island but only with the consent of the owner of the place;

(e) a marriage in (or over) the Island or its territorial waters aboard an approved aircraft, vehicle or vessel;

(f) a marriage in (or over) the Island or its territorial waters aboard an aircraft, vehicle or vessel which is not approved, but only with the consent of the owner of the aircraft, vehicle or vessel;

(g) a marriage in the air-space over the Island and its territorial waters, not aboard an aircraft;

(h) a marriage in the territorial waters of the Island not aboard a vessel or aircraft.”.

(3) After subsection (1) add —

“(2) A marriage may only take place in accordance with paragraph (c) to (h) of subsection (1) with the consent of the Chief Registrar which must be given or withheld in accordance with guidance under subsection (3).

(3) The Clerk of the Rolls shall issue guidance about the factors and circumstances to be taken into account by the Chief Registrar in determining whether to give consent under subsection (2).

(4) The guidance shall be framed so as to secure that the Chief Registrar’s consent is not unreasonably withheld, and shall be laid before Tynwald as soon as practicable after it is made.

(5) The Chief Registrar shall secure that the guidance issued under subsection (3) is available to members of the public.”.

9. (1) Amend section 20 (notice of marriage) as follows.

(2) For subsection (1) substitute —

“(1) Where a marriage is intended to be solemnized on the authority of a certificate of a registrar, the persons to be married shall give notice of marriage in the prescribed form.”.

(3) Omit subsection (2).

(4) For subsection (3) substitute —

“(3) A notice of marriage shall state —

(a) the name and surname, marital status, occupation, age and place of residence of each of the persons to be married;

(b) if the marriage is to be solemnized —

(i) in accordance with paragraph (a), (b), (c) or (d) of section 19(1), where it is to be solemnized;

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SCH. 1

(ii) in accordance with paragraph (e) or (f) of that subsection, particulars of the aircraft, vehicle or vessel aboard which it is to be solemnized; or

(iii) in accordance with paragraph (g) or (h) of that subsection, which of those paragraphs applies; and

(c) the period, not being less than 7 clear days, during which each of the persons to be married has resided in his or her place of residence.

(3A) Nothing in subsections (1) to (3) limits the operation of section 27.”.

10. After section 20 insert —

“House-bound persons

P1983/32/1

**20A.** (1) This section applies if two people wish to marry each other at the place where one of them is house-bound.

(2) A person is house-bound at any place if, in relation to that person, a statement is made by a registered medical practitioner that, in that practitioner’s opinion —

(a) because of illness or disability, that person ought not to move or be moved from the place where he is at the time when the statement is made; and

(b) it is likely to be the case for at least the following 3 months that because of the illness or disability that person ought not to move or be moved from that place.

(3) The procedure under which the two people concerned may marry each other is the same as that set out in section 20, except that —

(a) the notice of marriage may be given by only one of the persons to be married;

(b) that notice must be accompanied by a statement under subsection (2) (“a medical statement”) in respect of the person to whom subsection (2) applies, which must have been made not more than 14 days before the day on which the notice is recorded; and

(c) the registrar to whom the notice is given must record the receipt of the medical statement in such manner as may be prescribed.

(4) A medical statement must contain such information and must be made in such manner as may be prescribed.

(5) A medical statement may not be made in relation to a person who is detained as described in section 20B(2).

Detained persons

P1983/32/1

**20B.** (1) This section applies if two persons wish to be married at the place where one of them is detained.

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(2) “Detained” means detained — SCH. 1

(a) as a patient in a hospital (but otherwise than by virtue of section 2, 4, 5, 36 or 132 of the Mental Health Act 1998 (short term detentions)), or [c. 3]

(b) in an institution designated by an order under section 11(2) of the Custody Act 1995. [c.1]

(3) The procedure under which the two persons concerned may be married is the same as that set out in section 20, except that —

(a) the notice of marriage may be given by one of the persons to be married;

(b) the notice of marriage must be accompanied by a supporting statement, which must have been made not more than 21 days before the day on which the notice is recorded; and

(c) the registrar to whom notice is given must record the receipt of the supporting statement in such manner as may be prescribed.

(4) A supporting statement, in relation to a detained person, is a statement made by the responsible authority which —

(a) identifies the establishment where the person is detained; and

(b) states that the responsible authority has no objection to that establishment being specified in a notice of marriage as the place at which the person is to be married.

(5) A supporting statement must contain such information and must be made in such manner as may be prescribed.

(6) “The responsible authority” means —

(a) if the person is detained in a hospital, the hospital’s managers;

(b) if the person is detained in an institution specified by order under section 11(2) of the Custody Act 1995, the governor or other officer for the time being in charge of that institution.

(7) “Patient” and “hospital” have the same meaning as in Part 2 of the Mental Health Act 1998 and “managers”, in relation to a hospital, has the same meaning as in section 138(1) of that Act.

Exceptions **20C.** Sections 20A and 20B do not apply to a marriage —

P1983/32/  
1(6)

(a) according to the usages of the Society of Friends; or

(b) between two persons professing the Jewish religion according to the usages of the Jews.”.

**11.** (1) Amend section 21 (declaration to accompany notice of marriage) as follows.

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- (2) In subsection (1) —
  - (a) for “the person by whom the notice is given” substitute “the person or persons by whom the notice is given”;
  - (b) in paragraph (a) for “he or she believes” substitute “they believe, or if section 20A or 20B applies, he or she believes”; and
  - (c) omit paragraphs (b) and (c).
- (3) In subsection (2) for “person” substitute “person or persons”.

### 12. After section 21 insert —

“Power to  
require  
evidence

**21A.** (1) A registrar to whom notice of marriage is given under section 20, 20A or 20B may require either of the persons to be married to provide the registrar with specified evidence relating to each of the persons to be married.

- (2) Such a requirement may be imposed at any time —
  - (a) on or after the giving of the notice of marriage; but
  - (b) before the registrar issues his or her certificate under section 24.
- (3) “Specified evidence”, in relation to a person, means such evidence as may be specified in guidance issued by the Chief Registrar —
  - (a) of the person’s name and surname;
  - (b) of the person’s age;
  - (c) as to whether the person has previously been married and, if so, as to the ending of the marriage;
  - (d) of the person’s nationality; and
  - (e) of the person’s gender.”

### 13. For the marginal note to section 22 substitute “Caveat against issue of certificate”.

### 14. (1) Amend section 24 (marriage under certificate without licence) as follows.

- (2) For the marginal note substitute “Marriage under certificate”.
- (3) In subsections (1) and (3) for “21 clear days” substitute “7 clear days”.

### 15. (1) Amend section 26 (period of validity of certificate and licence) as follows.

(2) For the marginal note substitute “Period of validity of certificate”. SCH. 1

(3) In subsections (1) and (2) for “3 months” substitute “12 months”.

**16.** In section 27(3) (party resident in United Kingdom or Channel Islands; and marriages abroad) —

(a) for “the registrar of the registration district in which he resides” substitute “a registrar”; and

(b) for “his district” substitute “the Island”.

**17.** In section 29(2) (registration of buildings) for “residents of the registration district in which the building is situated” substitute “residents of the Island”.

**18.** (1) Amend section 30 (cancellation of registration and substitution of another building) as follows.

(2) In subsection (4) —

(a) for “the first-mentioned” substitute “the alternative”; and

(b) for “the disused building” substitute “that building”.

(3) In subsection (5) —

(a) for “residents of the registration district in which the building in question is situated” substitute “residents of the Island”;

(b) in paragraph (a) for “it” substitute “the alternative building”;

(c) in paragraph (b) for “disused” in each place substitute “previous”; and

(d) in paragraph (c) for “the building” substitute “the alternative building” and for “the disused building” substitute “the previous building”.

**19.** (1) Amend section 31 (solemnization of marriage in a registered building) as follows.

(2) After subsection (3) insert —

“(3A) As an alternative to the declaration set out in subsection (3) the persons to be married may make the requisite declaration either —

(a) by saying “I declare that I know of no legal reason why I [name] may not be joined in marriage to [name]”; or

(b) by replying “I am” to the question put to them successively “Are you [name] free lawfully to marry [name]?”;

and as an alternative to the words of contract set out in subsection (3) the persons to be married may say to each other “I [name] take you [or thee] [name] to be my wedded wife [or husband].”.

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(3B) The Chief Registrar may specify Manx Gaelic forms of the declarations and the words of contract in subsections (3) and (3A), but if such forms are specified and are used in a ceremony of marriage they must be used in addition to, and not in substitution for, the forms in English.

(3C) Where one or other of the persons required to make the declarations in subsection (3) or (3A) is unable to speak, the minister referred to in subsection (2) may read the declarations in that subsection (and any Manx Gaelic form specified under subsection (3B) if the parties to be married wish it and the minister is agreeable) on that person's behalf if the minister obtains from him or her such written or other satisfactory evidence of consent as may be prescribed."

**20.** For section 32 substitute —

**32.** (1) If a marriage is intended to be solemnized on the authority of a certificate of a registrar, the persons to be married shall state in the notice of marriage whether they wish to be married —

"Solemnization of marriage other than in registered building

- (a) in a registrar's office;
- (b) in a manner authorised by section 19(1)(c) to (h), and if so which of those paragraphs applies; or
- (c) in the place where one of them is house-bound or detained (see sections 20A and 20B).

(2) A notice may only be given under subsection (1)(b), with the consent of the Chief Registrar.

(3) A notice of marriage under subsection (1)(a), (b) or (c) shall specify —

- (a) in the case of a marriage taking place on land, where the marriage is to take place;
- (b) in the case of a marriage taking place aboard an aircraft, vehicle or vessel, such particulars of the aircraft, vehicle or vessel and its proposed itinerary as the registrar may reasonably require;
- (c) in any other case such particulars of the time, manner and place of the marriage as the registrar may reasonably require.

(4) Where notice has been given and a certificate issued under subsection (1), the marriage may be solemnized in accordance with the certificate in the presence of 2 witnesses.

(5) The persons to be married shall make the declarations and use the form of words set out in section 31(3) or (3A), and subsections (3B) and (3C) of that section apply for the purposes of this section as they apply for the purposes of that section with the substitution of "registrar" for "minister" wherever it occurs in subsection (3C).

(6) Where a marriage is solemnized in a registrar's office, or any other place which is a building, the doors of the office or building must be open during the marriage ceremony."

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**21.** In section 33(a) (proof of certain matters not necessary to validity of marriages) for “registration district” substitute “place”. SCH. 1

**22.** (1) Amend section 34 (void marriages) as follows.

(2) Renumber the existing text as subsection (1).

(3) In subsection (1) —

(a) for paragraph (d) substitute —

“(d) otherwise than in the place, or manner, specified in the notice of marriage and certificate of the registrar;”;

(b) for paragraph (f) substitute—

“(f) in a case where a registrar’s attendance is required, in the absence of a registrar;”.

(4) At the end add —

“(2) This section is subject to section A51.”.

**23.** (1) Amend section 35 (fees of registrars for attending marriages) as follows.

(2) Renumber the existing text as subsection (1).

(3) After subsection (1) add —

“(2) Where a registrar solemnizes a marriage otherwise than at a registrar’s office, the parties to the marriage shall pay to the registrar —

(a) a fee of such amount as may be prescribed; and

(b) such travelling, subsistence and other expenses (if any) as may be prescribed.

(3) Any fee and any expenses payable under subsection (2) may be recovered by the registrar concerned from the parties to the marriage concerned as a simple contract debt.”.

**24.** (1) Section 36 (marriages which may be solemnized on the authority of licence of Deemster) is amended as follows.

(2) In subsection (1) for the words following “be solemnized” substitute “at such place in the Island as is specified in the licence”.

(3) For subsection (2) substitute —

“(2) A Deemster may not issue a licence for the solemnization of a marriage unless satisfied that one of the persons to be married is seriously ill and not expected to recover.”.

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**25.** (1) In section 37(1) (notice of marriage, evidence and caveat) for “the registrar of the registration district in which it is intended that the marriage shall be solemnized” substitute “a registrar”.

(2) In section 37(6) for “the registrar” substitute “a registrar”.

**26.** In section 39 (validity of marriages) —

(a) in subsection (2)(a) and (e) for “the registrar” substitute “a registrar”;  
and

(b) at the end add —

“(3) This section is subject to section A51.”.

**27.** In section 40 (persons by whom marriages are to be registered) for paragraphs (c) and (d) substitute —

“(c) in the case of a marriage celebrated in accordance with notice given under any of paragraphs (b) to (h) of section 19(1), by the registrar.”.

**28.** In section 41(1)(a) (provision of marriage register books by Chief Registrar) for “rector, vicar or curate in charge” substitute “incumbent”.

**29.** After section 49(1) (search of indexes kept by Chief Registrar) insert —

“(1A) Indexes made and kept by the Chief Registrar under subsection (1) and any information contained in them may be kept in such format (including electronic) as the Chief Registrar thinks fit, provided it is possible to search the information contained in the indexes and to obtain a certified copy in legible form of any entry to which that information relates.”.

**30.** For sections 51 to 55 substitute—

“Validation of marriages otherwise void **A51.** (1) Where two people have married each other in the Island, the Governor may by order validate the marriage if it appears to the Governor that it is or may be void under section 34 or 39.

(2) An order under subsection (1) may include provisions for relieving a person from any liability under section 52, 53 or 54.

(3) The draft of an order under subsection (1) shall be advertised, in such manner as the Governor thinks fit, for not less than one month before the order is made.

(4) The Governor shall —

(a) consider all objections to the order sent to the Governor in writing during the period of the advertisement; and

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(b) if it appears to the Governor to be necessary, require the Attorney General to cause an inquiry to be made into the validity of any such objections. SCH. 1

(5) The Inquiries (Evidence) Act 2003 shall apply to an inquiry under subsection (4)(b) as if the inquiry were held by a person appointed by the Governor. [c. 8]

(6) After an inquiry under subsection (4)(b) the Attorney General shall report the findings of the inquiry and the Attorney General's recommendations on the objections to the Governor.

Tynwald control of orders and regulations

**51.** (1) The Clerk of the Rolls may make regulations prescribing any matter (other than the amount of, or the method of computing, any fee or allowable expense) which by this Act may be prescribed.

(2) Regulations under subsection (1) may provide that a person who contravenes the regulations commits an offence and is liable, on summary conviction, to a fine not exceeding £5,000.

(3) Regulations under subsection (1) shall be laid before Tynwald as soon as practicable after they are made, and, if they contain provision under subsection (2) shall cease to have effect if Tynwald, at the sitting before which they are laid or the next following sitting does not approve them.

(4) An Order made by the Governor under section A51(1) shall be laid before Tynwald as soon as practicable after it is made.

(5) The Treasury may by regulations prescribe the amount of, or the method of computing, any fee or allowable expense under any provision of this Act.

(6) An order under section 1(3) or regulations under subsection (5) shall not have effect unless approved by Tynwald.

Offences relating to solemnization of marriage

**52.** (1) A person commits an offence if he knowingly and wilfully solemnizes a marriage according to the rites and ceremonies of the Church of England —

(a) otherwise than between the hours of 7 a.m. and 6 p.m., except on the authority of a special licence;

(b) without banns having been duly published, except on the authority of a special licence or a common licence;

(c) anywhere other than a church or other building in which banns may be published, except on the authority of a special licence; or

(d) falsely pretending to be in Holy Orders.

(2) A person commits an offence if he knowingly and wilfully solemnizes a marriage —

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- (a) in the absence of a registrar in circumstances where a registrar is required to be present;
- (b) in a registered building but in the absence of a minister;
- (c) on the authority of a registrar's certificate within 7 days of the notification day;
- (d) on the authority of a registrar's certificate more than 12 months after the notification day;
- (e) on the authority of a Deemster's licence otherwise than in accordance with its terms; or
- (f) which is void under any provision of Part III.

In paragraph (b) "minister" has the meaning given in section 31(4).

(3) Subsection (2) does not apply to a marriage solemnized according to the rites of the Church of England.

(4) A registrar commits an offence if, acting as such, he knowingly and wilfully —

- (a) issues a certificate for a marriage within 7 days of the notification day;
- (b) issues a certificate for a marriage after the expiry of 12 months after the notification day;
- (c) issues a certificate, when its issue is forbidden under section 23 by a person entitled to do so, unless the Chief Registrar has issued a certificate as mentioned in section 23(2);
- (d) solemnizes, or permits to be solemnized in his presence, a marriage on the authority of a Deemster's licence which is void under any provision of Part IV.

(5) A person guilty of an offence under this section is liable —

- (a) on conviction on information, to custody for not more than 2 years or a fine or both;
- (b) on summary conviction, to a fine not exceeding £5,000.

(6) Proceedings for an offence under this section shall not be instituted more than 3 years after the commission of the offence.

(7) If a registrar is convicted of an offence under any provision of this section the court by which he is convicted may order him to cease to be a registrar.

(8) In this section "notification day" means the day on which the notice of marriage is entered in the marriage notice book.

Offences  
relating to  
evidence  
under  
section 37

**53.** (1) A person commits an offence if the person knowingly —

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(a) gives false information by way of evidence in response to a requirement under section 37(3); or SCH. 1

(b) gives a certificate as provided for by section 37(4), knowing that the certificate is false.

(2) A person who commits an offence under subsection (1) is liable —

(a) on conviction on information, to custody for not more than 2 years or a fine or both;

(b) on summary conviction, to a fine not exceeding £5,000.

Offences relating to the recording of marriages

**54.** (1) A person who refuses or fails to comply with the provisions of this Part is guilty of an offence.

(2) A person who refuses, or without reasonable cause omits, to register a marriage which this Act requires that person to register, is guilty of an offence.

(3) A person is guilty of an offence if, having a marriage register book in his custody —

(a) he carelessly loses or injures the book; or

(b) he carelessly allows the book to be injured.

(4) If a person required under Part V to make and deliver to the Chief Registrar —

(a) a certified copy of entries made in the marriage register book kept by the person; or

(b) a certificate that there have been no entries made in that book since the date of the last certified copy,

refuses to deliver any such copy or certificate, or fails to deliver any such copy or certificate, at the time appointed by the Chief Registrar under section 43, that person is guilty of an offence.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £5,000.

(6) If a registrar is convicted of an offence under this section the court by which he is convicted may order him to cease to be a registrar.

Interpretation **55.** In this Act —

[S.I. 2007/1115] “aircraft” shall be construed in accordance with Part A of Schedule 1 the Air Navigation (Isle of Man) Order 2007;

“approved” in relation to an aircraft, place, vehicle or vessel means approved by the Chief Registrar in accordance with guidance issued by the Clerk of the Rolls;

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SCH. 1

“banns” means banns of matrimony;

“child”, except where used to express a relationship, means a person under the age of eighteen;

“child of the family” in relation to any person, means a child who has lived in the same household as that person and been treated by that person as a child of his or her family;

“cleric” means a clerk in Holy Orders of the Church of England and includes a clerk in Holy Order of the Church in Wales or the Church of Ireland;

“Deemster’s licence” means a licence under Part IV;

“incumbent”, in relation to a church or chapel in which marriages may be solemnized according to the rites of the Church of England, means —

- (a) the incumbent of the benefice in the area of which the church or chapel is situated,
- (b) if there is no incumbent, the priest-in-charge of that benefice,
- (c) if there is no incumbent or priest-in-charge of the benefice and a team ministry has been established for that benefice, any vicar in the team ministry to whom a special cure of souls has been assigned for the area in which the church or chapel is situated, and
- (d) if none of paragraphs (a) to (c) applies, such cleric as is designated in writing by the Bishop to exercise the function of the incumbent under this Act;

“marriage notice book” has the meaning assigned to it by section 20(4);

“parish” means an ecclesiastical parish;

“prescribed” means prescribed by regulations made under section 51;

“public chapel” means a chapel licensed by the Bishop under section 14(1) for the solemnization of marriages;

“registered building” means a building registered under section 29;

“registrar” means a registrar of marriages;

“special licence” has the meaning assigned to it by section 5;

“vehicle” means any form of land transport, other than an animal (but includes a carriage or similar conveyance drawn by an animal);

“vessel” means any description of water craft.”.

SCH. 1

**31.** For Schedule 1 (prohibited degrees of relationship) substitute —

“Section 1

SCHEDULE 1

PROHIBITED DEGREES OF RELATIONSHIP

PART 1

THE PROHIBITIONS

**1.** (1) The list referred to in section 1(1)(c) is —

Adoptive child

Adoptive parent

Child

Former adoptive child

Former adoptive parent

Grandparent

Grandchild

Parent

Parent’s sibling

Sibling

Sibling’s child.

(2) In subparagraph (1) “sibling” means a brother, sister, half-brother or half-sister.

PART 2

DEGREES OF AFFINITY REFERRED TO IN SECTION 1(2)

**2.** (1) The list referred to in section 1(2) is —

Child of former spouse

Former spouse of grandparent

Former spouse of parent

Former spouse of child

Parent of former spouse

Grandchild of former spouse.

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SCH. 1

[c. 20]

- (2) In subparagraph (1) “child” includes —
  - (a) a child of the family, within the meaning of section 102(1) of the Children and Young Persons Act 2001; and
  - (b) a person who would be a child of the family for the purposes of that definition if the words “, not being a child who is placed with those parties as foster parents by the Department,” were omitted.

### PART 3

#### SPECIAL PROVISIONS RELATING TO QUALIFIED PROHIBITIONS

##### *Provisions relating to paragraph 2*

3. Paragraphs 4 to 6 apply where two people are subject to paragraph 2 but intend to marry.

4. (1) The fact that a notice of marriage has been given must not be recorded in the notice book unless the registrar —

- (a) is satisfied by the production of evidence that both of the persons to be married have reached the age of 21 years, and
- (b) has received a declaration made by each of those persons —
  - (i) specifying their affinal relationship; and
  - (ii) declaring that the younger of them has not at any time before reaching 18 been a child of the family (“child” here being construed in accordance with paragraph 2(2)) in relation to the other.

(2) Subparagraph (1) does not apply if a declaration is obtained under paragraph 6.

(3) A declaration under subparagraph (1)(b) must contain such information and must be signed and attested in such manner as may be prescribed.

(4) The fact that a registrar has received a declaration under subparagraph (1)(b) must be recorded in the register.

(5) A declaration under subparagraph (1)(b) must be filed and kept by the registrar.

5. (1) Subparagraph (2) applies if —

- (a) a registrar has received from a person who is not one of the proposed parties to the marriage a written statement signed by that person which alleges that a declaration made under paragraph 4 is false in a material particular; and

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(b) the notice book shows that such a statement has been received. SCH. 1

(2) No certificate authorising a marriage between the parties may be issued by a registrar unless a High Court declaration is obtained under paragraph 6.

6. (1) Either of the proposed parties to the marriage may apply to the High Court for a declaration that, given that —

(a) both of them have reached the age of 21 years, and

(b) the younger of those persons has not at any time before reaching 18 been a child of the family in relation to the other,

there is no impediment of affinity to the formation of the marriage.

(2) Such an application may be made whether or not any statement has been received by the registrar under paragraph 5.

7. Section 22 (caveat against issue of certificate) does not apply in relation to a proposed marriage to which paragraphs 4 to 6 apply, except so far as an objection to the issue of a certificate for the marriage is made under that section on a ground other than the affinity between the proposed parties to the marriage.”.

32. Throughout the Act for “clergyman” substitute “cleric”.

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Section 2

SCHEDULE 2

AMENDMENT OF THE CIVIL REGISTRATION ACT 1984

1. For section 1 substitute —

“Registration 1. The Island (including its territorial waters) shall be the district registration district for the purposes of the registration of births, marriages and deaths.”.

2. In section 2 (appointment of registrars, etc.) —

(a) in subsection (1) for “registrar and deputy registrar of each district” substitute “registrars”;

(b) for subsection (2) substitute —

“(2) A person may be appointed registrar for the purpose of registering one or more of the following —

(a) births;

(b) deaths;

(c) marriages.”;

(c) for subsection (6) substitute —

“(6) Registrars shall have known offices in the Island and shall attend at those offices, and at such other places in the Island, as the Chief Registrar may appoint, on such days and at such hours as the Chief Registrar may approve, for the purposes of performing their functions under this Act and the Marriage Act 1984.”.

3. In section 3(2) (particulars of births to be registered) for “for the district in which the child is found” substitute “with such particulars as may be prescribed”.

4. In section 6(1)(a) (registrar’s power to require information concerning birth) for “the registrar’s office” substitute “a registrar’s office”.

5. In section 11(1) (information given by person out of the Island) for “the registrar for the district in which the birth took place” substitute “the office of a registrar”.

6. After section 14(1) insert —

“(1A) Upon receipt of a declaration under subsection (1)(b) the registrar shall as soon as reasonably practicable provide a copy to the coroner and the still-birth shall not be registered until the coroner’s instructions are received.”.

7. (1) Amend section 18 (particulars of death to be registered) as follows.

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(2) In subsection (1) for “the registrar for the district in which the death occurred by entering in a register kept for that district” substitute “the entry by a registrar in a register of”.

SCH. 2

(3) In subsection (2) for “the registrar for the district in which the body is found” substitute “the entry by a registrar in a register of such particulars concerning the death as may be prescribed”.

**8.** (1) Amend section 19 (information concerning death in a house) as follows.

(2) In subsection (1) —

(a) for paragraph (b) substitute —

“(b) any other relative of the deceased who has knowledge of any of the particulars required to be registered concerning the death;”;

(b) in paragraph (d), after “the house” insert “or a person who resided with the deceased”.

(3) In subsection (2)(b) for “each” substitute “the nearest”.

**9.** (1) Amend section 21(1) (registrar’s power to require information concerning death) as follows.

(2) For “the registrar” where it first occurs substitute “a registrar”.

(3) In paragraph (a) for “at the registrar’s office, or at some other place appointed by the registrar within his district” substitute “at such place as is specified in the notice”.

(4) In paragraph (c) for “the registrar” substitute “a registrar”.

**10.** In section 26(3) (certificates as to registration of death) —

(a) for “into” substitute “to”; and

(b) for “the registrar of the district in which it is intended to dispose of the body” substitute “a registrar”.

**11.** In section 32(b) for “in his district” substitute “by the registrar”.

**12.** In section 35 (search of indexes kept by Chief Registrar) —

(a) after subsection (1) insert —

“(1A) Indexes made and kept by the Chief Registrar under subsection (1) and any information contained in them and the registers to which they relate may be kept in such format (including electronic) as the Chief Registrar thinks fit, provided it is possible (to the extent permitted as mentioned in this section) to search for, and to obtain a copy in legible form of, that information.”;

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SCH. 2

(b) in subsection (2) —

- (i) for “the said indexes” substitute “the indexes maintained under subsection (1)”;
- (ii) at the end add “,but subject to the qualification in subsection (3).”;

(c) for subsection (3) substitute —

“(3) Subsection (2) does not apply to —

- (a) registers of still-births;
- (b) adoption registers; or
- (c) the gender recognition register.

(4) Despite subsection (3)(a) and (b), the Chief Registrar may, if satisfied that it is appropriate in any particular case and on payment of the prescribed fee (if any) —

- (a) permit access to the indexes to those registers for the purposes of research; or
- (b) cause a search to be made in those indexes for, and permit any person to have a certified copy of, any entry in those registers.

(5) For the sake of clarity, the Chief Registrar shall only permit a person to inspect an entry in the gender recognition register, or have a copy of such an entry, as permitted by the Gender Recognition Act 2009 or an order under that Act.”.

**13.** In section 36 (searches in registers kept by registrars) for subsection (2) substitute —

“(2) Subsection (1) does not apply to registers of —

- (a) still-births;
- (b) adoptions;
- (c) the gender recognition register.

(3) Despite subsection (2)(a) and (b), a registrar may in a particular case, with the consent of the Chief Registrar, if the registrar is satisfied that it is appropriate in any particular case and on payment of the prescribed fee (if any) —

- (a) permit access to those registers for the purposes of research; or
- (b) cause a search to be made for, and permit any person to have a certified copy of, any entry in those registers.

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(4) For the sake of clarity, a registrar shall only permit a person to inspect an entry in the gender recognition register or have a copy of an entry in it, as permitted by the Gender Recognition Act 2009 or an order under that Act.” SCH. 2

**14.** In section 44 (interpretation) for the definition of “registrar” substitute —

““registrar” in relation to births, deaths or marriages means any person appointed for the purpose of registering an event of that class;”.

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Section 3

SCHEDULE 3

### CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

#### *Matrimonial Proceedings Act 2003 (c.7)*

Amendment of section 21

**1.** In section 21 (jurisdiction: further provisions) after subsection (5) insert —

“(5A) Nothing in subsections (1) to (5) limits the application of section 21A or any jurisdiction exercisable by virtue of regulations under that section.”.

Insertion of section 21A

**2.** After section 21 insert —

“Jurisdiction **21A.** (1) The Council of Ministers may by regulations make regulations provision —

(a) as to the jurisdiction of the High Court in proceedings for the dissolution or annulment of a marriage or for the legal separation of the parties to a marriage where one of them —

(i) is or has been habitually resident in a member State;

(ii) is a national of a member State; or

(iii) is domiciled in the Island; and

(b) as to the recognition in the Island of any judgment of a court of a member State which orders the dissolution or annulment of a marriage or the legal separation of the parties to a marriage.

In this section such regulations are called “jurisdiction regulations”.

(2) Before making jurisdiction regulations the Council of Ministers must consult the Deemsters.

(3) Jurisdiction regulations may in particular make provision corresponding to that made by Council Regulation (EC) No 2201/2003 of 27th November 2003 in relation to jurisdiction and the recognition and enforcement of judgments in matrimonial matters.

(4) Jurisdiction regulations may provide that for the purposes of this section and the regulations “member State” means —

(a) all member States with the exception of such member States of the European Communities as are specified in the regulations; or

(b) such member States as are specified in the regulations.

(5) Jurisdiction regulations may make provision under subsection (1)(b) which applies even if the date of the dissolution, annulment or legal separation is earlier than the date on which this section comes into operation.”.

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*Adoption Act 1984 (c.14)*

SCH. 3

3. In section 38 (access to adoption registers) — Amendment  
of section 38
- (a) in subsection (3) for “any person shall be entitled to search” substitute “if satisfied that it is appropriate in a particular case, may permit any person to search”; and
  - (b) in subsection (4) for “ “Adopted” ” substitute “ “Amended on the authority of the Chief Registrar” ”.
4. In Schedule 2 (registration of adoptions) —
- (a) in paragraph 1(3) for “ “Adopted” ” substitute “ “Amended on the authority of the Chief Registrar” ”;
  - (b) in paragraph 1(4) for “ “Re-adopted” ” substitute “ “Amended on the authority of the Chief Registrar” ” ;
  - (c) in paragraph 2(1) for the words from “ “Adopted” or “Re-adopted” ” to the end of the sub-paragraph substitute “ “Amended on the authority of the Chief Registrar.” ”;
  - (d) in paragraph 2(4) for “in the like manner” substitute “in the manner prescribed in that sub-paragraph”;
  - (e) in paragraph 3(1) for the words in paragraph (b) from “ “Adopted” or “Re-adopted” ” to the end of the sub-paragraph substitute “ “Amended on the authority of the Chief Registrar”. ”;
  - (f) in paragraphs 5(1) and 6(b) for “ “Adopted” ” substitute “ “Amended on the authority of the Chief Registrar” ”.

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Section 4

SCHEDULE 4

TRANSITIONAL PROVISIONS

*Appointment of registrars*

1. (1) On and after the day on which Schedule 2 comes into operation (“the relevant day”) the following provisions of this paragraph shall have effect.

(2) A person holding an appointment as a registrar for any of the former registration districts in the Island immediately before the relevant day shall be entitled and obliged to discharge the functions, which, immediately before the relevant day, he or she was entitled and obliged to discharge in that district, anywhere in the Island.

(3) A person holding an appointment as a deputy registrar immediately before the relevant day shall on that day become a registrar and entitled and obliged to discharge all of the functions of that office (as enlarged by subparagraph (2)).

*Computation of time*

2. Where any period of time is running when a provision of this Act comes into operation —

- (a) the coming into operation of that provision shall not prevent something from being lawfully done, or done at a particular time, if it could have been lawfully done, or done at that time but for that provision coming into operation; but
- (b) if the relevant provision would permit something to be done lawfully at an earlier time if it had been in operation when the period began, that thing may be done at or after that earlier time as if the relevant provision had been in operation when the period began.

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Section 5

SCHEDULE 5

REPEALS

<i>Chapter</i>	<i>Enactment</i>	<i>Extent of repeal</i>
XIX p.1396	Judicature (Matrimonial Causes) Act 1965	The whole Act (so far as still in force).
c. 12	Civil Registration Act 1984	<p>In section 2(3) “ or deputy registrar”.</p> <p>In section 3(1) “for the district in which the child was born” and “kept for that district”.</p> <p>In section 19 —</p> <p>(a) subsection (1)(e); and</p> <p>(b) in subsection (2)(d) the words “(e) or”</p> <p>In section 44 —</p> <p>(a) the definition of “district”; and</p> <p>(b) in the definition of “public institution” the words “lock-up”.</p> <p>Schedule 1.</p>
c. 13	Marriage Act 1984	<p>In section 3(9) “or licence”.</p> <p>In section 9(3) “or minister in charge of the said church or building, or some other clergyman nominated in that behalf by the Bishop,”.</p> <p>In section 10(3) “or minister in charge” and “or by a clergyman nominated in that behalf by the Bishop,”.</p> <p>In section 14(1) from “reserving” to the end of the subsection.</p> <p>In Part III “and licences” (wherever occurring).</p> <p>In section 20(1) “without licence”.</p>

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SCH. 5

Section 20(2).

In section 21(1) —

- (a) in the words before paragraph (a) “or licence”;
- (b) in paragraph (b) “in the case of a marriage intended to be solemnized without licence,”; and
- (c) paragraph (c).

In section 22 “or licence” (wherever occurring).

In section 24 “without licence” (wherever occurring).

Section 25.

In section 26(1) “, whether by licence or without licence,”.

In section 26(2) “and any licence granted thereon”.

In sections 29(1) and 30(4) “separate”.

In section 30(5)(b) “in question”.

In section 36(2) “he is”.

In section 37(1) “of the registration district in which it is intended that the marriage shall be solemnized”.

In section 41(1)(a) “(in this Part called “the incumbent”)”.

Section 50.

c.14

Adoption Act 1984

In Schedule 2 in paragraph 2(3) the words from “but any marking” to the end of the subparagraph.

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- |       |                             |                                       |        |
|-------|-----------------------------|---------------------------------------|--------|
| c. 25 | Treasury Act 1985           | In Schedule 2, paragraph 378.         | SCH. 5 |
| c. ?? | Gender Recognition Act 2009 | In Schedule 2, paragraphs 1<br>and 2. |        |

IN THE KEYS

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**Marriage and Civil Registration  
(Amendment)**

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**A BILL**

*to amend the Marriage Act 1984;  
to simplify marriage procedures;  
to enable civil marriages to be  
solemnised in places and  
circumstances approved by the  
Chief Registrar; to amend the  
Civil Registration Act 1984; to  
abolish registration districts; to  
make provision about the  
jurisdiction of the High Court in  
divorce; and for connected  
purposes.*

Approved by the Council of Ministers for  
introduction in the House of Keys.

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MR. BRAIDWOOD

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NOVEMBER 2009

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