

## New Zealand



### ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;"><i>Service Marriages</i></p> <p>2. Interpretation.</p> <p>3. Record of Service marriages solemnized outside New Zealand.</p> <p>4. Special register of Service marriages.</p> <p>5. Index of special register.</p> <p>6. Certified copies to be evidence of marriage.</p> | <p>7. Validity of Service marriages. Repeal and saving.</p> <p>8. Revocation of emergency regulations, and savings.</p> <p style="text-align: center;"><i>Forbidden Marriages</i></p> <p>9. Avoidance of marriages between persons within prohibited degrees of relationship. Repeals.</p> <p>10. Validation of certain marriages already solemnized. Schedule.</p> |
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1946, No. 8

Title.

AN ACT to amend the Marriage Act, 1908.

[26th September, 1946

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Marriage Amendment Act, 1946, and shall be read together with and deemed part of the Marriage Act, 1908 (hereinafter referred to as the principal Act).

See Reprint  
of Statutes,  
Vol. III, p. 826

*Service Marriages*

2. For the purposes of this Act and of the principal Act, unless the context otherwise requires,— Interpretation.

“ Member of the Forces ” means any person who is a member of any of His Majesty’s Forces raised in New Zealand:

“ Service marriage ” means a marriage solemnized between parties one or both of whom are members of the Forces.

3. (1) Subject to the provisions of subsection three of this section, every member of the Forces who while out of New Zealand solemnizes a Service marriage shall keep a record of the particulars relating to the marriage in a form as nearly as possible according to the form in the Sixth Schedule to the principal Act. Record of Service marriages solemnized outside New Zealand.

(2) Subject to the provisions of subsection three of this section, every member of the Forces who so solemnizes a Service marriage shall, as soon as practicable after the solemnization of the marriage, forward to the Registrar-General a duplicate record of the marriage bearing the actual signatures of the contracting parties, the witnesses, and the member of the Forces who solemnizes the marriage.

(3) Nothing in this section shall apply in any case where particulars of a Service marriage are registered in any part of the British dominions in accordance with the law thereof.

4. (1) The Registrar-General on receiving, pursuant to section three of this Act, a duplicate record of particulars of a Service marriage solemnized out of New Zealand, and on being satisfied as to the authenticity thereof, shall bind the same up in a special register to be kept by him for the purpose. Special register of Service marriages.

(2) In any case where a Service marriage has been solemnized out of New Zealand by a member of the Forces, whether before or after the passing of this Act, and a duplicate record of the particulars of the marriage has not been received by the Registrar-General under this Act, the Registrar-General on receiving from either of the parties to the marriage or from any person on behalf of either of the parties or of any of their issue a record of the particulars of the marriage, or an original certificate of the solemnization

thereof, purporting to be signed by the person who solemnized the marriage, and on being satisfied as to the authenticity of the record or certificate and that the production of a duplicate record in accordance with section three of this Act is impracticable, may accept the record or certificate and bind it up in the special register aforesaid as if the record or certificate were a duplicate record as required by the said section three.

(3) The Registrar-General, for the purpose of establishing the authenticity of any record or certificate as aforesaid, may examine witnesses on oath, and may administer oaths to such witnesses, and may require any other proof, by affidavit, declaration, or otherwise, as he thinks fit.

Index of special register.

5. The Registrar-General shall cause an index of the special register aforesaid to be compiled and kept in his office, and shall permit any person on payment of the appropriate fee specified in the Second Schedule to the principal Act to search the index and to have a copy, certified by the Registrar-General, of any record of the particulars of any marriage, or of any certificate of any marriage, which is in the special register aforesaid.

Certified copies to be evidence of marriage.

6. A certified copy of the record of the particulars of any marriage, or of any certificate of any marriage, which is in the special register aforesaid shall, if it purports to be signed by the Registrar-General, be received as *prima facie* evidence in any Court of the fact of the marriage to which it relates having been solemnized.

Validity of Service marriages.

7. (1) It is hereby declared that any Service marriage solemnized out of New Zealand by any member of the Forces who is a chaplain or who is duly authorized in that behalf shall be deemed to have been and to be as valid as if it had been solemnized in New Zealand in accordance with the principal Act by a person duly authorized in that behalf.

Repeal and saving.  
4 Geo. IV, c. 91

(2) The Act of the Parliament of the United Kingdom passed in the year eighteen hundred and twenty-three and intituled "An Act to relieve His Majesty's subjects from all doubt concerning the validity of certain marriages solemnized abroad" shall not after the passing of this Act be in force in New Zealand:

Provided that this subsection shall not render invalid any marriage solemnized before the passing of this Act.

8. (1) The Marriage Emergency Regulations 1944 are hereby revoked.

Revocation of emergency regulations, and savings.  
Serial number 1944/87

(2) The special register and index kept under the regulations hereby revoked and all records, certificates, copies, and certified copies and generally all acts of authority that originated under any of the provisions of those regulations and are subsisting or in force on the passing of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under the regulations hereby revoked and pending or in progress on the passing of this Act may be continued and completed under this Act.

### *Forbidden Marriages*

9. (1) A marriage which is forbidden by the provisions of the Schedule to this Act shall be void.

Avoidance of marriages between persons within prohibited degrees of relationship.

(2) Sections forty-four, forty-five, and forty-six of the principal Act, and the Marriage Amendment Act, 1929, are hereby repealed.

(3) Section two of the Marriage Act, 1835 (Imperial), shall not after the passing of this Act be in force in New Zealand.

Repeals.  
See Reprint of Statutes Vol. III, p. 850  
5 & 6 Will. IV, c. 54

10. All marriages contracted and solemnized before the passing of this Act that by virtue of section nine of this Act would have been valid and lawful if this Act had been in force when they were contracted and solemnized shall be deemed to have been and to be valid and binding, and the issue born of any such marriage (whether born before or after the passing of this Act) shall be deemed to have been born in lawful wedlock:

Validation of certain marriages already solemnized.

Provided that where either of the parties to any such marriage has thereafter during the lifetime of the other party to the marriage and before the passing of

this Act lawfully intermarried with any other person the first marriage shall be deemed to have been dissolved immediately before the solemnization of the second marriage:

Provided also that this section shall not affect any estate, right, or interest in any real or personal property to which any person has become absolutely entitled before the passing of this Act, or affect any proceedings commenced in any Court before the passing of this Act, or any decree, order, or judgment made or given (whether before or after the passing of this Act) in any such proceedings.

## Schedule.

## SCHEDULE

## FORBIDDEN MARRIAGES

1. A man may not marry his—
  - (1) Grandmother:
  - (2) Grandfather's wife:
  - (3) Wife's grandmother:
  - (4) Father's sister:
  - (5) Mother's sister:
  - (6) Mother:
  - (7) Step-mother:
  - (8) Wife's mother:
  - (9) Daughter:
  - (10) Wife's daughter:
  - (11) Son's wife:
  - (12) Sister:
  - (13) Son's daughter:
  - (14) Daughter's daughter:
  - (15) Son's son's wife:
  - (16) Daughter's son's wife:
  - (17) Wife's son's daughter:
  - (18) Wife's daughter's daughter:
  - (19) Brother's daughter:
  - (20) Sister's daughter.
2. A woman may not marry her—
  - (1) Grandfather:
  - (2) Grandmother's husband:
  - (3) Husband's grandfather:
  - (4) Father's brother:
  - (5) Mother's brother:
  - (6) Father:
  - (7) Step-father:
  - (8) Husband's father:
  - (9) Son:
  - (10) Husband's son:

SCHEDULE—*continued*FORBIDDEN MARRIAGES—*continued*

- (11) Daughter's husband:
- (12) Brother:
- (13) Son's son:
- (14) Daughter's son:
- (15) Son's daughter's husband:
- (16) Daughter's daughter's husband:
- (17) Husband's son's son:
- (18) Husband's daughter's son:
- (19) Brother's son:
- (20) Sister's son.

3. The foregoing provisions of this Schedule with respect to any relationship shall apply whether the relationship is by the whole blood or by the half blood and whether the relationship is legitimate or illegitimate.

4. In this Schedule, unless the context otherwise requires, the term "wife" means a former wife, whether she is alive or deceased, and whether her marriage was terminated by death or divorce or otherwise, and the term "husband" has a corresponding meaning.