



# WESTERN AUSTRALIA.

—◆—  
ANNO DECIMO NONO VICTORIÆ REGINÆ.

—◆—  
No. XI.

## An Ordinance to amend and consolidate the Laws affecting the Solemnization of Mar- riage in the Colony of Western Australia.

**W**HEREAS it is expedient to amend and consolidate the Laws relating to the Solemnization of Marriage in the colony of Western Australia:—Be it therefore enacted, by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—<sup>Preamble.</sup>

I. THAT from and after the time at which this Ordinance shall come into operation, the Ordinances enumerated in the Schedule hereto, marked A, be, and the same are hereby respectively repealed, save and except as to marriages had and solemnized, and things lawfully done, by virtue of any such Ordinances, prior to the commencement of this Ordinance. <sup>Existing Ordinances repealed.</sup>

## 19th Vict. No. 11.

II. THAT no marriage shall be celebrated except by some Minister of religion, ordinarily officiating as such, whose name, designation, and usual residence shall have been registered, and shall then continue registered in the Office of the Registrar-General, in Perth, in the said colony.

No marriage to be solemnized except by duly registered ministers of religion.

III. PROVIDED that where the parties to be married shall, before the Registrar of the district within which the intended wife ordinarily resides, sign a declaration in the form set forth in the schedule hereto, marked B, the marriage may be celebrated between such parties by such District Registrar, in the form of words set forth in the Schedule hereto, marked C, to be repeated and signed by the parties to such marriage respectively.

Provision for marriage by District Registrar.

IV. THAT no marriage shall be celebrated until after a declaration upon oath, or solemn affirmation shall have been made before some surrogate for licenses, or before the Minister or District Registrar celebrating the marriage, by each of the parties to be married, in the form set forth in the Schedule hereto, marked D.

No marriage to be solemnized until declaration made.

V. THAT every marriage which shall be celebrated by any such officiating Minister or District Registrar as aforesaid, after oath or solemn affirmation so made as aforesaid, shall be a legal and valid marriage, to all intents and purposes, and no other marriage, except as hereinafter provided, shall be valid for any purpose; and that a certificate of every such marriage, under the hand of the minister celebrating the same, shall be by him transmitted, within one calendar month after the celebration of such marriage, to the Registrar of the District where such marriage was celebrated.

After declaration marriage legal but not valid if omitted.

VI. PROVIDED that no marriage in fact shall be avoided by reason only of the same having been celebrated by a person not being a Minister or ordinarily officiating minister of religion, if either of the parties to the marriage shall, at the time, *bonâ fide* have believed that he was such ordinarily officiating minister.

Marriage in fact not to be avoided by reason of person not being a minister.

VII. THAT every marriage shall be celebrated in the presence of two witnesses, at least, who shall sign a certificate, which shall be also signed by the Minister, or District Registrar, celebrating the marriage, and by the parties thereto, and shall be legibly written (or partly written and partly printed) in the form contained in the schedule hereto, marked E; and such Minister or District Registrar

Two witnesses.

1856.

19th Vict. No. 11.

shall deliver a copy of such certificate immediately after the marriage, signed by himself, to one of the parties to the marriage. Copy signed by minister.

VIII. THAT nothing in this Ordinance shall extend, or be construed to extend, to any marriage between parties both of whom shall be Quakers or Jews: Provided, however, that a certificate of every such marriage shall, within one calendar month next following, be transmitted to the Registrar of the District within which it was celebrated, by the person celebrating the marriage, or by one of the parties thereto, stating the date and place of such marriage, and the name, designation, and usual residence of each of those parties. Jews and Quakers.

IX. THAT every marriage celebrated between parties being both Quakers or both Jews, shall be as legal and valid as if duly solemnized under the provisions of this Ordinance, if such marriage was, when celebrated, a valid marriage, according to the usages of the Quakers or the Jews, as the case may be. Valid if celebrated according to their usage.

X. THAT no marriage shall be solemnized, except in some recognized place of Public Worship, or in the office of the District Registrar, except under special license for that purpose, to be issued by His Excellency the Governor; and that no marriage shall be solemnized before eight a.m., or after four p.m. Either in place of worship or Registrar's office. Time.

XI. THAT if either party to any intended marriage, not being a widower or widow, shall be under the age of twenty-one years, such marriage shall not take place without production to the Minister or District Registrar, about to celebrate the same, of the written consent of the father of such party, if within the colony; or, if not within the colony, then of a guardian appointed by the father; or if there be no such guardian in the colony, then of the mother of such party, if within the colony; or, where there is no such parent or guardian in the colony, or he or she is incapable of duly consenting, by reason of distance, habitual intoxication, or mental incapacity, then the written consent of some Justice of the Peace, who shall, previous to giving such consent, make due inquiry into the facts and circumstances of the case, and satisfy himself that no valid objections exist to such marriage. Minors must show written consent of parent or guardian.

XII. THAT when any marriage shall be celebrated upon the production of such written consent as aforesaid, a statement of the fact of such consent shall be endorsed on the certificate of such marriage, and on the copy thereof, signed respectively by the Minister or District Registrar celebrating the same. Which must be endorsed on certificate.

XIII. THAT no marriage shall be deemed to have been unduly celebrated by reason only of any mere defect or error in the declaration made respecting the same, where the identity of the parties to the marriage shall not be in question.

Marriage not vitiated by mere error if identity of parties be established.

XIV. THAT every marriage celebrated in the colony of Western Australia, before the commencement of this Ordinance, by any Minister of religion or person ordinarily officiating as such, shall be, and be deemed to have been, from the time of the celebration thereof, a perfectly legal and valid marriage (notwithstanding any non-compliance with forms or other irregularity attending the celebration) to all intents and purposes.

Existing marriages untouched;

XV. PROVIDED that nothing in the previous section, or in the fifth section of this Ordinance, shall legalize any marriage declared or made (or which shall hereafter be declared or made) invalid by any competent court, or by Colonial Ordinance; nor any marriage where either party thereto had another wife or husband then living; nor any marriage which would have been or would be void, but for those sections, by reason of relationship, kindred, or alliance, or of fraud or incapacity to contract marriage; nor any marriage where (the same being at the time of its celebration invalid) either of the parties thereto shall afterwards, and before the commencement of this Ordinance, have intermarried with some other person.

Unless invalid in themselves, and for others specified causes.

XVI. THAT a copy of the Registry in the Office of the Registrar General, and under his hand, of any marriage, shall be deemed as evidence in all proceedings, civil and criminal, of the fact of such marriage having been duly celebrated, until the contrary is shewn.

Registrar's office copy evidence of marriage.

XVII. THAT every Minister, District Registrar, or other person who shall celebrate, or profess or attempt to celebrate, the marriage in the case of any person under the age of twenty-one years, not being a widower or widow, without such written consent as aforesaid, knowing him or her to be under that age, or knowing that the consent produced is not by the appropriate person, or who shall wilfully celebrate, or profess or attempt to celebrate, any marriage in any other case, contrary to the provisions of this Ordinance, or where the provisions of this Ordinance have not been complied with, shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to a fine not exceeding Five Hundred Pounds, either alone, or with imprisonment, with or without hard labour, for any term not exceeding five years, as the Court may award.

Minister of Religion who shall marry minors contrary to this Ordinance guilty of a misdemeanor—£500 fine.

1856.

19th Vict. No. 11.

XVIII. THAT any person who shall wilfully make any false statement, upon oath, or by solemn affirmation, before any Surrogate, Minister, or District Registrar, shall be deemed guilty of perjury, and be liable to prosecution and punishment accordingly. False affirmation under this Ordinance perjury.

XIX. THAT every person who shall wilfully marry a person under the age of twenty-one years, not being a widower or widow (and whom he or she shall know to be under that age) without previously obtaining such consent as is hereinbefore required to be obtained prior to the celebration of marriage with a minor, or who shall induce, or endeavour to induce, any Minister, District Registrar, or other person to celebrate such marriage, and every person who shall abet or assist the offender in any such act, knowing the same to be illegal, shall severally be guilty of a misdemeanor, and be liable to such punishment by fine, not exceeding Five Hundred Pounds, or imprisonment, with or without hard labour, for any term not exceeding five years, or both, as the Court may award. Layman abetting an irregular marriage guilty of misdemeanor. £500.

XX. THAT if any person shall forge, or assist in forging, or procure to be forged (or shall utter or assist in uttering or cause to be uttered as true, knowing the same to be forged) any consent or writing purporting to be a consent of or by the father, guardian, or mother of a person under the age of twenty-one years, or to be the consent of a Justice of the Peace, empowered as aforesaid, under the provisions of this Ordinance, or any certificate or writing, purporting to be a certificate, under the provisions of this Ordinance, or any copy of registry, or writing, purporting so to be, or shall sign or transmit to any Registrar any certificate, or writing purporting so to be, containing, to his or her knowledge, any false statement therein, the person so offending shall be guilty of felony, and be liable to imprisonment, with or without hard labour, at the discretion of the Court, for any term not exceeding five years. The forging parent's consent to minor's marriage, or of Registry copy, or of certificate, guilty of felony. Sentence.

XXI. THAT no marriage shall be affected by reason of the omission by the Minister celebrating the same, to cause his name, designation, or usual residence to be registered according to the provisions of this Ordinance; but every Minister, or person officiating as such, who shall celebrate any marriage, knowing that his name, designation, or usual residence, has not been so registered, or is not then duly registered, shall be liable to be dealt with under the 17th section of this Ordinance; or, if the omission was acci- The irregularity of any minister, though it subject him to punishment under Section 17, shall not vitiate the marriage.

dental, or by inadvertence, to a fine not exceeding Twenty Pounds, to be recovered by proceedings in a summary way before two Justices of the Peace.

Penalties of minis-  
ters. XXII. THAT if any Minister or other person, having celebrated any marriage, shall fail to comply with the provisions of this Ordinance or any of them, respecting the certificate to be transmitted to the District Registrar, he shall be liable to a fine of not less than Ten Pounds, and not exceeding Fifty Pounds, to be recovered by proceeding in a summary way before two Justices of the Peace; and in cases within the 8th section of this Ordinance, where no person shall have celebrated the marriage other than the parties thereto themselves, the like penalty shall attach to the husband, in case the certificate thereby required shall not be duly transmitted.

Definition of words  
"Registrar General." XXIII. THAT wherever the words "Registrar General" and "District Registrar" occur in this Ordinance, they shall be deemed and construed to mean the Registrar General of Births, Deaths, and Marriages, and any District Registrar of Births, Deaths, and Marriages in the said colony respectively.

Sections A, E, F,  
and I of Shortening  
Ordinance incorpo-  
rated. XXIV. THAT sections A, E, F, and I of the schedule of the "Shortening Ordinance, 1853," shall be incorporated with and taken to form part of this Ordinance, to all intents and purposes, in as full and ample a manner as if the said sections had been introduced and fully set forth in this Ordinance.

Commencement of  
Ordinance. XXV. THAT this Ordinance shall commence and take effect on the first day of August now next ensuing.

A. E. KENNEDY,

GOVERNOR AND COMMANDER-IN-CHIEF.

*Passed the Legislative Council this }  
12th day of June, 1856. }*

HENRY WAKEFORD,  
*Clerk of the Council.*

1856.

19th Vict. No. 11.

### Schedule A.

#### *Ordinances Repealed.*

No. 18 of the 10th Victoria; passed the 9th day of November, 1847. No. 11 of the 12th Victoria; passed the 9th day of May, 1849. No. 12 of the 12th Victoria; passed the 9th day of May, 1849.

---

### Schedule B.

#### *Form of Declaration to authorize Marriage before a District Registrar.*

We, A. B., of (*usual place of residence and designation or employment*) and C. D., of (*usual place of residence and designation or employment*), do hereby declare that we are desirous of being married, but that we object to be married by a minister of religion, (*or, "but that there is no minister of religion accessible for the purpose of solemnizing our marriage."*)

Signed by the parties this                    } (*Signatures.*)  
  day of                                    18

Before me,

District Registrar.

---

### Schedule C.

#### *Form of Marriage before a District Registrar.*

I, A. B., of (*usual place of residence and designation or employment*) do hereby declare in the presence of C. D., Registrar of Marriages

for the district of \_\_\_\_\_ that I take E. F., of (*usual place of residence and designation or employment*) to be my lawful wife, and I the said E. F. do declare that I take the said A. B. to be my lawful husband.

(*Signatures.*)

---

### Schedule D.

*Declaration before Surrogate, Minister, or District Registrar.*

I, A. B., of (*usual place of residence and designation or employment*) being duly sworn, do on my oath declare, (*or if objecting to take an oath, "do solemnly and sincerely declare and affirm"*) that I believe there is no impediment or lawful objection, by reason of any kindred, relationship, or alliance, or any former marriage, or the want of consent of parents or guardian, or any other lawful cause, to my being married to C. D., of (*usual place of residence and designation or employment*) daughter of E. F., of (*usual place of residence and designation.*)

(*Signature of A. B.*)

And I the said C. D., on my oath declare (*or, "do solemnly and sincerely declare and affirm"*) that I believe there is no impediment or lawful objection, by any such reason or other lawful cause as aforesaid, to my being married to the said A. B.

(*Signature of C. D.*)

Declared; or sworn, by both the parties }  
 named this \_\_\_\_\_ day of \_\_\_\_\_ }  
 18 \_\_\_\_\_

Before me,

(*Signature and designation.*)

---



1856.

19th Vict. No. 11.

Schedule E.  
Certificate of Marriage.

No.	When and where married.	Name and Surname.	Under or above the age of 21 years.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.	Rank or Profession of Father.

Married in the \_\_\_\_\_, according to the rites and ceremonies of \_\_\_\_\_ by me, after oath (*or*, "declaration") duly made as by Law required.

This Marriage was solemnized between us, \_\_\_\_\_ { in the presence of us, \_\_\_\_\_ }

PRINTED BY AUTHORITY OF THE GOVERNMENT, BY STERNING, SHOLL & COMPANY, PERTH, WESTERN AUSTRALIA.