

The Marriage Act, 1995

being

[Chapter M-4.1](#) of the *Statutes of Saskatchewan, 1995* (effective February 21, 1997) as amended by the *Statutes of Saskatchewan, 2004, c.66*; and [2009, c.V-7.21](#) and [c.4](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER M-4.1

An Act respecting the Solemnization of Marriage

SHORT TITLE AND INTERPRETATION

Short title

1 This Act may be cited as *The Marriage Act, 1995*.

Interpretation

2 In this Act:

“**director**” means the person designated by the minister as the director; (*«directeur»*)

“**issuer**” means an issuer of marriage licences appointed pursuant to section 10, or a deputy issuer acting pursuant to section 13; (*«délivreur de licences»*)

“**licence**” means a marriage licence issued pursuant to section 17; (*«licence»*)

“**marriage commissioner**” means a marriage commissioner appointed pursuant to section 28; (*«commissaire aux mariages»*)

“**medical practitioner**” means a medical practitioner who is registered pursuant to *The Medical Profession Act, 1981*, or an equivalent law of any other province or territory of Canada, and who is not under suspension; (*«médecin»*)

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned; (*«ministre»*)

“**prescribed**” means prescribed in the regulations; (*version anglaise seulement*)

“**religious body**” means a church or a religious denomination, sect, congregation or society. (*«groupement religieux»*)

1995, c.M-4.1, s.2.

SOLEMNIZATION OF MARRIAGE

Persons authorized to solemnize marriage

3 The following persons, if registered pursuant to this Act as qualified to solemnize marriage, may solemnize marriage between persons not under a legal disqualification to contract marriage:

- (a) a member of the clergy of a religious body who is ordained or appointed according to the rites and ceremonies of that religious body;
- (b) any catechist, missionary or theological student who is appointed or commissioned by the governing body of any religious body with special authority to solemnize marriage;

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- (c) any commissioner or appointed and commissioned officer of the Salvation Army, other than a probationary lieutenant, chosen or commissioned by the Salvation Army to solemnize marriage;
- (d) an ordained Rabbi who has charge of or is connected with a congregation in Saskatchewan;
- (e) a marriage commissioner appointed by the minister.

1995, c.M-4.1, s.3.

Prohibition of unauthorized persons

4 Notwithstanding any other Act or law, no person other than a marriage commissioner or a member of the clergy registered pursuant to this Act shall solemnize any marriage.

1995, c.M-4.1, s.4.

REGISTRATION OF CLERGY**Duties of director respecting registration**

5(1) Subject to subsection (3), the director shall register members of the clergy:

- (a) who are permanently resident in Saskatchewan, or who regularly attend to pastoral duties in Saskatchewan; and
- (b) whose names are submitted to the director by the proper ecclesiastical authorities of the religious body to which those members of the clergy belong.

(2) The director may register members of the clergy to solemnize marriage, during a period fixed by the director:

- (a) who are not permanently resident in Saskatchewan or who do not regularly attend to pastoral duties in Saskatchewan; and
- (b) whose names have been submitted to the director by the proper ecclesiastical authorities of a religious body or who, as shown by satisfactory evidence, are authorized to solemnize marriage in another province, territory, state or country.

(3) No person shall be registered pursuant to this section unless the director is satisfied that the religious body submitting the name of the person is so established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, as to warrant, in the opinion of the director, the registration of its clergy.

1995, c.M-4.1, s.5.

Religious bodies to furnish list

6 The proper ecclesiastical authority of each religious body whose clergy are authorized to solemnize marriage pursuant to this Act shall:

- (a) supply the director with a certified list, in the prescribed form, of those clergy annually, or oftener if required; and

(b) notify the director of every member of the clergy who has died or ceased to reside in Saskatchewan, or who has in any other way ceased to possess the qualifications entitling the member to be registered.

1995, c.M-4.1, s.6.

Certificate of registration

7(1) The director shall issue a certificate of registration to each member of the clergy who is registered pursuant to this Act.

(2) Where the period during which a member of the clergy may solemnize marriages is limited pursuant to subsection 5(2), the certificate of registration is to state that period.

1995, c.M-4.1, s.7.

Non-registration not to invalidate marriage

8 No marriage is invalid by reason only that the person performing the ceremony was not registered pursuant to this Act at the time of the ceremony.

1995, c.M-4.1, s.8.

PRELIMINARIES TO SOLEMNIZATION

Licence to be produced

9 No member of the clergy or marriage commissioner shall solemnize a marriage unless the parties to the intended marriage produce to him or her the licence required by this Act.

1995, c.M-4.1, s.9.

ISSUERS OF MARRIAGE LICENCES

Supply of forms and issue of licences

10(1) The minister may appoint persons to be issuers of marriage licences.

(2) Marriage licences are to be in the prescribed form.

(3) The director or the director's agent shall supply sealed forms of marriage licences to issuers.

1995, c.M-4.1, s.10.

Weekly returns

11 Subject to section 12, on Monday in each week, every issuer shall forward to the director a return, in the prescribed form, respecting all licences that he or she issued during the preceding week, including the names of the parties to whom the licences were issued.

1995, c.M-4.1, s.11.

Other returns

12(1) In special cases, the Lieutenant Governor in Council may exempt an issuer from the application of section 11 and may order the issuer to make a special return.

(2) If requested by the director, an issuer shall make a sworn return of all licence forms at any time supplied to the issuer.

(3) If requested to by the director, an issuer shall return all forms in his or her possession.

1995, c.M-4.1, s.12.

Deputy issuers

13(1) An issuer who is unable to act for any reason may, with the approval of the director, appoint in writing, for a period not exceeding 12 months, a deputy issuer to act for the issuer in his or her absence.

(2) Every deputy issuer shall indicate that he or she is a deputy issuer when signing any form pursuant to this Act.

1995, c.M-4.1, s.13.

Issuer to read licence to parties

14(1) The issuer shall read the form of licence to each of the parties separately, in order to verify that both parties fully understand its contents.

(2) If necessary, an independent interpreter shall be employed for the purposes of subsection (1).

1995, c.M-4.1, s.14.

Power to take declarations

15 Issuers and members of the clergy may take declarations and administer oaths for the purposes of this Act.

1995, c.M-4.1, s.15.

Form to be completed by issuer

16(1) Every issuer shall fill in the blanks and sign each licence at the time of issue and shall append to the licence all documents deposited with the issuer by the parties, except those deposited pursuant to subsection 17(2).

(2) No issuer shall issue a licence for the issuer's own marriage.

1995, c.M-4.1, s.16.

Conditions governing issue of licence

17(1) Before a licence is issued, each party shall:

- (a) pay the prescribed fee; and
- (b) personally and separately make a statutory declaration before the issuer in the prescribed form, on the reverse side of which the prohibitions in law in Canada against marriage by reason of the parties being related must be printed in the prescribed form.

(2) Where a party has been previously married but the marriage has been dissolved or annulled, whether within or outside of Saskatchewan, the party shall furnish to the issuer any evidence of the dissolution or annulment of the marriage that the director may require from time to time.

(3) Where a party has been previously married and a declaration of presumption of death has been made by the Court of Queen's Bench pursuant to section 24, the party shall furnish that declaration to the issuer.

(4) The issuer shall issue a licence unless he or she has reason to believe that the requirements of this Act have not been or will not be complied with or that there are any legal impediments to the proposed marriage.

(5) Subject to subsection (6), the licence shall be dated and become effective the day after the day on which the statutory declaration in the prescribed form was filed with the issuer.

(6) The issuer, with the approval of the director or on receipt of evidence satisfactory to the issuer that exceptional and urgent circumstances exist, may issue a licence that is dated and becomes effective on the same day as the day on which the statutory declaration is filed with the issuer.

1995, c.M-4.1, s.17.

Declaration in certain cases

18(1) If either of the parties is unable to make the declaration personally before the issuer, the issuer may permit that party to make a declaration in the prescribed form before a justice of the peace, commissioner for oaths or notary public.

(2) A declaration made pursuant to subsection (1) must contain the reason relied on to excuse personal attendance before the issuer.

(3) A declaration made pursuant to subsection (1) must be delivered to the issuer before the issue of the licence.

1995, c.M-4.1, s.18.

Party under 16 years of age

19(1) No licence is to be issued to a person under 16 years of age unless a provincial court judge decides that the age of the person should not prohibit the solemnization of the proposed marriage.

(2) A decision made pursuant to subsection (1) does not relieve a person from compliance with sections 25 and 26.

(3) This section applies to all persons, including Doukhobortsi.

1995, c.M-4.1, s.19.

Hours for issue of licence

20 No licence shall be issued between the hours of 10:00 p.m. and 6:00 a.m. unless the issuer is satisfied from evidence presented to him or her that the proposed marriage is legal and that exceptional circumstances exist that render the issue of the licence advisable.

1995, c.M-4.1, s.20.

Irregularities not to invalidate marriage

21 No irregularity in the issue of a licence that has been obtained or acted on in good faith invalidates a marriage solemnized under the authority of the licence.

1995, c.M-4.1, s.21.

Ceremony within three months

22 A marriage shall not be solemnized under the authority of a licence more than three months after the date of its issue.

1995, c.M-4.1, s.22.

Documents required

23(1) Within seven days after solemnizing a marriage, a member of the clergy or marriage commissioner shall send to the Registrar of Vital Statistics:

- (a) the statement of marriage required pursuant to *The Vital Statistics Act, 2009* for registration of the marriage; and
- (b) the completed marriage licence and all documents appended to the licence pursuant to subsection 16(1).

(2) After reviewing the statement mentioned in clause (1)(a), the Registrar of Vital Statistics shall forward all documents mentioned in clause (1)(b) to the director.

1995, c.M-4.1, s.23; 2009, c.V-7.21, s.119.

PRESUMPTION OF DEATH

Power of court to make declaration

24(1) For the purposes of subsection 17(3), a married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present a petition to the Court of Queen's Bench to have it presumed that the other party is dead, and the court, if satisfied that reasonable grounds exist, may make a declaration of presumption of death.

(2) In a proceeding pursuant to subsection (1), evidence satisfactory to the court that for a period of seven years or more the other party to the marriage has been continually absent from the petitioner and that the petitioner has made reasonable inquiries and has no reason to believe that the other party has been living within that time is sufficient evidence in support of the petition.

1995, c.M-4.1, s.24.

MARRIAGE OF MINORS

Consent required

25(1) Subject to subsections (2) to (6), if either of the parties to an intended marriage is under the age of 18 years then, before the issue of a licence, there must be deposited with the issuer a consent to the marriage in the prescribed form:

- (a) by both parents of the minor if both are living; or
 - (b) by the surviving parent of the minor where one of the parents is dead.
- (2) The consent of only one parent is sufficient:
- (a) where that parent has legal custody of the minor and the marriage of the parents has been dissolved or the parents are living separate and apart from each other pursuant to a decree of judicial separation or under a separation agreement; or
 - (b) where the other parent is a patient in an in-patient facility within the meaning of *The Mental Health Services Act*.
- (3) The consent of only one parent is sufficient where the minor has been living with that parent for a period of at least one year immediately preceding the date of the intended marriage of the minor and where:
- (a) the marriage of the parents of the minor has not been dissolved but the parents have been living separate and apart from each other during that period other than pursuant to a decree of judicial separation or under a separation agreement;
 - (b) the parents have not cohabited as husband and wife at any time during that period;
 - (c) the parent not having custody of the minor has not contributed to the support of the other parent or the minor during that period; and
 - (d) the parent giving the consent files with the consent in the prescribed form a declaration in the prescribed form.
- (4) If one of the parties to the intended marriage is a minor and if both parents of the minor are dead or one of the parents is dead and the other parent is a patient in an in-patient facility within the meaning of *The Mental Health Services Act*, then before the issue of a licence there must be deposited with the issuer a consent of the kind mentioned in subsection (1), given by a lawfully appointed guardian of the minor or the acknowledged guardian who may have brought up or may, for three years immediately preceding the intended marriage, have supported the minor.
- (5) If one of the parties to the intended marriage is a minor and the minor has been committed to the Minister of Community Resources and Employment pursuant to *The Family Services Act*, being chapter F-7 of *The Revised Statutes of Saskatchewan, 1978*, or *The Child and Family Services Act*, then before the issue of the licence there must be deposited with the issuer a consent of the kind mentioned in subsection (1), given by a director within the meaning of that Act.

(6) Subsections (1) to (5) do not apply to a person who is a widow or widower or who has been previously married but whose marriage has been dissolved.

(7) Subject to section 26, the consent required by this section is a condition precedent to a valid marriage unless the marriage has been consummated or the parties have cohabited and lived together as husband and wife after the ceremony.

1995, c.M-4.1, s.25; 2004, c.66, s.6.

Power of courts to dispense with consent

26(1) A person under the age of 18 years who is unable to obtain consent pursuant to section 25 may apply to a judge of the Court of Queen's Bench or of the Provincial Court of Saskatchewan, and the judge may, in his or her discretion, grant an order dispensing with the consent.

(2) Where a judge has made an order pursuant to subsection (1), a licence may be issued and the ceremony performed accordingly.

1995, c.M-4.1, s.26.

MARRIAGE OF DOUKHOBORTSI

Marriage according to Doukhobortsi rites

27(1) Nothing in this Act shall be construed as in any way preventing Doukhobortsi from celebrating marriage according to the rites and ceremonies of their own religion or creed, where either of the parties is a Doukhobor.

(2) Nothing in subsection (1) dispenses with the necessity of obtaining a licence preliminary to celebrating the marriage.

(3) Both parties to the marriage shall sign the licence.

(4) Immediately after the marriage, either party to the marriage shall make a written record of the marriage by:

(a) entering the particulars of the marriage on a statement of marriage form obtained from the Registrar of Vital Statistics; and

(b) signing the statement of marriage and obtaining the signatures of the other party to the marriage and two witnesses to the marriage who are 18 years of age or older.

(5) Within seven days after the marriage, either party to the marriage shall submit to the Registrar of Vital Statistics:

(a) the statement of marriage completed in accordance with subsection (4); and

(b) the marriage licence signed by both parties and all documents appended to the licence.

- (6) The Registrar of Vital Statistics shall:
- (a) deal with a statement of marriage submitted pursuant to subsection (5) in accordance with *The Vital Statistics Act, 2009*; and
 - (b) send the licence and all documents appended to the licence to the director.

1995, c.M-4.1, s.27; 2009, c.V-7.21, s.119.

CIVIL MARRIAGE

Appointment of marriage commissioners

28(1) The minister may appoint marriage commissioners for the purposes of this Act for any district in Saskatchewan.

(2) Every marriage commissioner may receive and take statutory declarations for the purposes of this Act.

1995, c.M-4.1, s.28.

Fees

29 A marriage commissioner is entitled, for each marriage ceremony he or she conducts, to receive from the parties to the marriage the fee prescribed in the regulations.

1995, c.M-4.1, s.29.

Authority of marriage commissioner

30 The authority of a marriage commissioner to solemnize marriage may be limited to cases where the parties to the intended marriage belong, or one of them belongs, to a certain creed or nationality, or it may include all cases where either of the parties objects to being or does not desire to be married by any of the persons enumerated in clauses 3(a), (b), (c) and (d).

1995, c.M-4.1, s.30.

Marriage by marriage commissioner

31 Marriage may be solemnized by a marriage commissioner and contracted in his or her office or any other place he or she selects, but only in the following form and manner:

- (a) the marriage must be contracted in the presence of the witnesses mentioned in section 37, and with open doors;
- (b) in the presence of the marriage commissioner and witnesses, each of the parties shall declare: "I do solemnly declare that I do not know of any lawful impediment why I, A.B., may not be joined in matrimony to C.D."; and each of the parties shall say to the other: "I call upon these persons here present to witness that I, A.B., do take you, C.D., to be my lawful wedded wife (or husband)"; after which the marriage commissioner shall say: "I, E.F., a marriage commissioner, by virtue of the powers vested in me by *The Marriage Act, 1995*, do hereby pronounce you A.B. and C.D. to be husband and wife".

1995, c.M-4.1, s.31.

VALIDITY OF CERTAIN MARRIAGES

Declaration of nullity marriage

32(1) In an action by the person who was at the time of the ceremony a minor, the Court of Queen's Bench may declare that a valid marriage was not effected or entered into where:

- (a) a form of marriage is gone through between persons either of whom is a minor, without the consent required by this Act;
 - (b) the marriage is not consummated; and
 - (c) the parties have not after the ceremony cohabited and lived together as husband and wife.
- (2) The court shall not declare a marriage void where sexual intercourse has taken place between the parties before the ceremony.
- (3) A declaration that a valid marriage was not effected or entered into shall only be made after a trial.

1995, c.M-4.1, s.32.

Manner of taking evidence

33(1) At a trial pursuant to section 32, the evidence shall be taken orally in open court.

(2) Subsection (1) shall not prevent the use of the depositions of witnesses residing outside Saskatchewan or of witnesses examined *de bene esse*, where, according to the practice of the court, depositions of that nature may be read in evidence.

1995, c.M-4.1, s.33.

Examination of parties

34 At a trial pursuant to section 32, the court may require either or both of the parties to be examined before the court regarding the matters in question in the action, and may require either party to submit to physical examination by a medical practitioner appointed by the court.

1995, c.M-4.1, s.34.

Marriages prior to July 1, 1933

35(1) Every marriage solemnized in Saskatchewan prior to July 1, 1933, between persons not under a legal disqualification to contract marriage, is deemed to have been and to be a lawful and valid marriage, insofar as it affects the civil rights in Saskatchewan of the parties and their issue, and with respect to all matters within the jurisdiction of Saskatchewan, notwithstanding that any of the formalities required by law were not observed, if:

- (a) the parties lived together and cohabited as husband and wife after the marriage; and
- (b) the validity of the marriage was not questioned in any suit or action before July 1, 1933.

(2) The issue of every marriage, the solemnization of which is validated by this section, are for all purposes deemed to be and to have been legitimate from the time of birth, but nothing in this subsection affects any right, title or interest in or to property where the right, title or interest was vested in any person prior to July 1, 1933.

1995, c.M-4.1, s.35.

Second ceremony for religious purposes

36(1) Persons who, having been married in accordance with this Act, desire a second ceremony for religious purposes, may have that ceremony performed.

(2) The second ceremony is supplemental to and does not supersede the first ceremony, and it shall not be registered as a marriage.

1995, c.M-4.1, s.36.

PROHIBITIONS

Witnesses

37 No member of the clergy or marriage commissioner shall solemnize a marriage without the presence of at least two credible witnesses 18 years of age or more.

1995, c.M-4.1, s.37.

Issuer not to solemnize marriage

38(1) No member of the clergy or marriage commissioner who is an issuer of marriage licences shall solemnize a marriage in any case in which he or she issued the licence authorizing the marriage.

(2) Subsection (1) does not apply to a member of the clergy or a marriage commissioner who resides north of a line commencing at the eastern boundary of Saskatchewan, thence westerly along the northern boundary of Township 55 to the Third Meridian, thence northerly along that meridian to the intersection of the meridian with the northern boundary of Township 62, and thence westerly to the western boundary of Saskatchewan.

(3) Subsection (2) may be repealed by proclamation.

1995, c.M-4.1, s.38; 2009, c.4, s.5.

Signature of director

39(1) Where the signature of the director is required for any of the purposes of this Act, the signature may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form.

(2) Every document issued pursuant to this Act under the signature of the director is and remains valid, notwithstanding that the director has ceased to hold office before the issue of the document.

1995, c.M-4.1, s.39.

Party under influence of alcohol or drugs

40 No issuer of marriage licences, member of the clergy or marriage commissioner who knows or has reason to believe that the judgment of either of the parties to the intended marriage is impaired by the use of alcohol or drugs shall issue a licence or solemnize a marriage between those persons.

1995, c.M-4.1, s.40.

Hours for solemnization

41 No member of the clergy or marriage commissioner shall solemnize a marriage between the hours of 10:00 p.m. and 6:00 a.m. unless he or she is satisfied from evidence produced to him or her that the proposed marriage is legal and that exceptional circumstances exist that render its solemnization advisable between those hours.

1995, c.M-4.1, s.41.

Where party does not understand language used

42 No member of the clergy or marriage commissioner shall perform a marriage ceremony when one or both of the parties speak a different language from that in which the ceremony is to be performed, unless an independent interpreter is present to interpret and convey clearly to the party or parties the meaning of the ceremony.

1995, c.M-4.1, s.42.

GENERAL

Registration of marriages and certificate of marriage

43(1) Every person authorized by this Act to solemnize marriage shall register every marriage that he or she solemnizes in accordance with *The Vital Statistics Act, 2009*.

(2) On completion of the marriage ceremony, the officiating member of the clergy or marriage commissioner shall furnish the contracting parties with a certificate of the marriage.

1995, c.M-4.1, s.43; 2009, c.V-7.21, s.119.

Protection of persons solemnizing marriage

44(1) No member of the clergy or marriage commissioner who solemnizes a marriage after a licence is issued pursuant to this Act with respect to the marriage is subject to any action or liability for damage or otherwise by reason of the existence of a legal impediment to the marriage unless, at the time the ceremony was performed, the member of the clergy or the marriage commissioner was aware of the impediment.

(2) No member of the clergy who, before October 1, 1992, solemnized a marriage after banns had been published with respect to the marriage is subject to any action or liability for damage or otherwise by reason of the existence of a legal impediment to the marriage unless, at the time the ceremony was performed, the member of the clergy was aware of the impediment.

1995, c.M-4.1, s.44.

REGULATIONS

Regulations

45 The Lieutenant Governor in Council may make regulations:

- (a) prescribing forms for the purposes of this Act;
- (b) prescribing fees for the purpose of section 29;
- (c) prescribing the sum to be paid by every issuer to the director for each form of licence;
- (d) prescribing the time and manner in which the sum mentioned in clause (c) is to be paid;
- (e) prescribing the fee that every issuer is entitled to receive from every person requiring a licence.

1995, c.M-4.1, s.45.

OFFENCES

Issuers

46(1) No issuer shall:

- (a) unlawfully issue a licence;
- (b) issue a licence without first having obtained all the documents required by this Act;
- (c) issue a licence where either of the parties to the intended marriage is under the influence of alcohol or drugs;
- (d) fail to make any return within the period prescribed by this Act for making it;
- (e) violate or fail to comply with any regulations made pursuant to this Act;
- (f) neglect or refuse to perform any other duty that he or she is required by this Act to perform.

(2) Every issuer who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding \$100.

1995, c.M-4.1, s.46.

Solemnizing marriage contrary to Act

47 Every person who solemnizes a marriage contrary to this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 for each contravention.

1995, c.M-4.1, s.47.

Performing ceremony after removal from office

48 Every person who, having been a member of the clergy or marriage commissioner, has been deposed from his or her ministry or deposed or removed from the office by virtue of which he or she was authorized to solemnize marriage, and solemnizes or undertakes to solemnize a marriage during the deposition or after the removal, is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 12 months.

1995, c.M-4.1, s.48.

False statement

49 Every person who wilfully makes or causes to be made a false statement respecting the particulars required to be recorded or reported pursuant to this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

1995, c.M-4.1, s.49.

General penalty

50 Every person who violates any provision of this Act for which no other penalty is provided is guilty of an offence and liable on summary conviction to a fine not exceeding \$20.

1995, c.M-4.1, s.50.

Time limit for prosecution

51 Every prosecution for a violation of this Act must be commenced within two years from the date of the violation.

1995, c.M-4.1, s.51.

Consent to prosecution

52 No prosecution for a violation of this Act shall be commenced without the permission of the Attorney General.

1995, c.M-4.1, s.52.

Repeal

53 *The Marriage Act* is repealed.

1995, c.M-4.1, s.53.