



FALKLAND ISLANDS

Marriage Ordinance 1996

(ORDINANCE No. 10 OF 1996)

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FALKLAND ISLANDS

Marriage Ordinance 1996

AN ORDINANCE To repeal the Marriage Ordinance and the Marriage (Enabling) Ordinance 1966, to make new provision in relation to the solemnisation of marriages in the Falkland Islands and for connected purposes.

[DATE OF COMMENCEMENT: 1ST JULY 1999]

PART I INTRODUCTORY

1 Short title and commencement

This Ordinance may be cited as the Marriage Ordinance 1996 and shall come into force on such date as may be notified by the Governor by notice published in the Gazette.

2 Interpretation

(1) In this Ordinance, and unless the context otherwise requires-

"brother" includes brother of the half blood;

"child of the family", in relation to any person, means a person under the age of eighteen who has lived in the same household as that person and has been treated by that person as a child of his family;

"court of competent jurisdiction" means a court of the Falkland Islands having, under the law of the Falkland Islands for the time being in force, jurisdiction in relation to the matter in question and any court in any country or territory outside the Falkland Islands which under the law of England for the time being in force would be regarded as being a court of competent jurisdiction in relation to the matter in question;

"extraordinary licence" means a licence granted under section 24 of this Ordinance;

"marriage notice book" means the book in which notices of marriage are by section 8(3) of this Ordinance required to be entered;

"minister of religion" and **"minister"** mean a person registered, or deemed to be registered, under section 26 of this Ordinance;

"prescribed" means prescribed by regulations made under this Ordinance;

"Registrar" means a registrar of marriages, and includes the Registrar General;

"the repealed Ordinance" means the Marriage Ordinance;

"sister" includes sister of the half blood;

"special licence" means a licence granted under section 21 of this Ordinance.

3 Valid marriages

(1) The following provisions of this section shall be deemed to have had effect in place of section 3 of the repealed Ordinance from 31st December 1949 (the date of the commencement of the repealed Ordinance) and shall continue to have effect.

(2) Subject to this section, every marriage solemnised in the Falkland Islands which-

- (a) was solemnised prior to 31st December 1902 in conformity with the law of England in force at the time of the marriage;
- (b) was solemnised prior to 31st December 1902 by a minister of religion or by a Registrar appointed under the Registration Ordinance 1853; or
- (c) was or is solemnised in accordance with the law of the Falkland Islands in force at the time of the celebration of the marriage,

shall be deemed to be a valid marriage unless or until a competent court in relation to the marriage in question has declared or declares to the contrary.

(3) No marriage contracted after 31st October 1966 (that is to say the day before the coming into force of the Marriage (Enabling) Ordinance 1966) (whether in or out of the Falkland Islands) between a man and a woman who is the sister, aunt or niece of a former wife of his (whether living or not) or was formerly the wife of his brother, uncle or nephew (whether living or not) shall by reason of that relationship be void or voidable under any enactment or rule of law applying in the Falkland Islands as a marriage between persons within the prohibited degrees of affinity.

(4) In subsection (3) words of kinship apply equally to kin of the whole or the half blood.

(5) Subsections (3) and (4) of this section do not validate a marriage, if either party to it is at the time of the marriage domiciled in a country outside the Falkland Islands, and under the laws of that country there cannot be a valid marriage between the parties.

(6) A marriage solemnised in the Falkland Islands before the commencement of this Ordinance which would otherwise have been valid under the law in force at the time the marriage was

solemnised shall not, after the commencement of this Ordinance be declared to be or be found invalid-

- (a) if solemnised by a Registrar, because it was solemnised in a place other than the office of the Registrar or a place specified in the licence;
- (b) if solemnised by a minister, because it was solemnised-
 - (i) by a minister who had not been notified in the prescribed manner as a minister approved by the Governor as a minister for the purpose of the solemnisation of marriages; or
 - (ii) in a building which was not a registered building,

and for the purposes of this subsection, "minister" means any person ordained under the rites of any constituent member of the Anglican Communion, or of the Church of Scotland or of the Roman Catholic Church and any person declared by an Order by the Governor under and for the purposes of this subsection to have been at the relevant time a minister.

(7) A marriage solemnised outside the Falkland Islands shall for the purposes of Falkland Islands law be recognised as a valid marriage if, at the time the question falls to be considered, it would under the law of England in force at that time be recognised as a valid marriage.

(8) A marriage which, under any of the preceding provisions of this section, is deemed to be or is recognised as a valid marriage shall be deemed to subsist until the happening of the earliest to occur of the following events-

- (a) that marriage being declared to be null or invalid by a decree or order of a court of competent jurisdiction;
- (b) that marriage being dissolved by a decree or order of a court of competent jurisdiction;
- (c) the death of one of the parties to the marriage.

3A Marriage of same sex couples

(1) The marriage of same sex couples is lawful.

(2) The marriage of a same sex couple must be solemnized in accordance with this Ordinance.

(3) The requirements under this Ordinance in relation to marriages apply to marriages of same sex couples and in particular the following -

- a) Part II which provides for restrictions on marriage and in that Part any reference to a "man" includes a "woman"; and any reference to a "woman" includes a "man";
- b) Part III in relation to marriages under the Registrar General's licence; and
- c) Part IV in relation to special licences and extraordinary licences.

[S 4/Ord. 6/2017/w.e.f. 29/4/2017]

3B Same sex marriages to be treated as other marriages

A same sex marriage solemnised under this Ordinance has and must be treated in the same manner and afforded the same status as a marriage between a man and a woman

[S 5/Ord. 6/2017/w.e.f. 29/4/2017]

4 Marriages in the Falkland Islands to be solemnised in accordance with this Ordinance

Every marriage solemnised in the Falkland Islands after the commencement of this Ordinance shall be solemnised in accordance with this Ordinance.

PART II RESTRICTIONS ON MARRIAGE

5 Marriage within prohibited degrees (12, 13, & 14 Geo 6 c.76, s. 1)

(1) A marriage is void which is solemnised-

- (a) between a man and any of the persons mentioned in the first column of Part 1 of Schedule 1 to this Ordinance; or
- (b) between a woman and any of the persons mentioned in the second column of Part 1 of Schedule to this Ordinance.

(2) Subject to subsection (3), a marriage is void which is solemnised-

- (a) between a man and any of the persons mentioned in the first column of Part 2 of Schedule 1 to this Ordinance; or
- (b) between a woman and any of the persons mentioned in the second column of Part 2 of Schedule 1 to this Ordinance.

(3) Any such marriage as is mentioned in subsection (2) is not void by reason only of affinity if-

- (a) both the parties to the marriage have attained the age of twenty-one at the time of the marriage; and
- (b) the younger party has not at any time been a child of the family in relation to the other party.

(4) Subject to subsection (5), a marriage is void which is solemnised-

- (a) between a man and any of the persons mentioned in the first column of Part 3 of Schedule 1 to this Ordinance; or
- (b) between a woman and any of the persons mentioned in the second column of Part 3 of Schedule 1 to this Ordinance.

(5) Any such marriage as is mentioned in subsection (4) is not void by reason only of affinity if both of the parties to the marriage have attained the age of twenty-one at the time of the marriage and the marriage is solemnised-

- (a) in the case of a marriage between a man and the mother of a former wife of his, after the death of both the former wife and the father of the former wife;
- (b) in the case of a marriage between a man and the former wife of his son, after the death of both his son and the mother of his son;
- (c) in the case of a marriage between a woman and the father of a former husband of hers, after the death of both the former husband and the mother of the former husband;
- (d) in the case of a marriage between a woman and a former husband of her daughter, after the death of both her daughter and the father of her daughter.

6 Marriage of persons under sixteen (12, 13 & 14 Geo.6 c.76, s. 2)

A marriage is void which is solemnised between persons either of whom is under the age of sixteen.

7 Marriage of persons under eighteen (12, 13 & 14 Geo.6 c.76 s. 3)

(1) Where the marriage of a person under the age of eighteen, not being a widower or widow, is intended to be solemnised on the authority of a licence issued by the Registrar General, the consent of the persons specified in subsection (2) of this section is required: provided that-

- (a) if the Registrar General is satisfied that the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of his being under any disability, the Registrar General shall dispense with the necessity for the consent of that person, if there is any other person whose consent is also required; and if the consent of no other person is required, the Registrar General may dispense with the necessity of obtaining any consent, or the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent cannot be so obtained;
- (b) if any person whose consent is required refuses his consent, the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent is refused.

(2) The consents are-

- (a) subject to paragraphs (b) to (d) of this subsection, the consent of-
 - (i) each parent (if any) of the person under the age of eighteen who has parental responsibility for him; and
 - (ii) each guardian (if any) of the person under the age of eighteen;
- (b) where a residence order is in force with respect to the child, the consent of the person or persons with whom he lives, or is to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection);

- (c) where a care order is in force with respect to the child, the consent of the Crown (in addition to the consents mentioned in paragraph (a) of this subsection);
- (d) where neither paragraph (b) nor (c) of this subsection applies but a residence order was in force with respect to the child immediately before he reached the age of sixteen, the consent of the person or persons with whom he lived, or was to live, as a result of the order (in substitution for the consents mentioned in paragraph (a) of this subsection).

(3) In this section "**guardian of a child**", "**parental responsibility**", "**residence order**" and "**care order**" have the same meaning as in the Children Ordinance 2014.

[Revision w.e.f. 31/07/2017]

(4) For the purposes of this section, "**the court**" means the Supreme Court, the Magistrate's Court or the Summary Court and the rules of court having effect in relation to applications under section 3 of the Marriage Act 1949 to the courts in England corresponding to the courts mentioned in this section shall have effect in relation to applications under this section to courts in the Falkland Islands, with such modifications only as the court concerned may direct.

PART III

MARRIAGES UNDER REGISTRAR GENERAL'S LICENCE

8 Marriages which may be solemnised on the authority of the Registrar General's licence

(1) Subject to the provisions of this Part of this Ordinance, the following marriages may be solemnised on the authority of a licence granted by the Registrar General-

- (a) a marriage by a minister of religion;
- (b) a marriage by a Registrar;
- (c) a marriage conducted by any person in the sight and hearing of a Registrar.

(2) Subject to the provisions of this Part of this Ordinance, a marriage which may be solemnised on the authority of a licence issued by the Registrar General may be so solemnised at any time of day, on any day and at any place in the Falkland Islands.

9 Notice of marriage

(1) Where a marriage is intended to be solemnised on the authority of a licence granted by the Registrar General, notice of marriage in the prescribed form shall be given to him.

(2) A notice of marriage shall state the name and surname, marital status, occupation and place of residence (which must be within the Falkland Islands) of each of the persons to be married and shall state the period, not being less than seven days during which each of the parties has resided in his or her place of residence. Where either of the parties has resided in the place stated in the notice for more than one month, the notice may state that he or she has resided there for more than one month.

(3) The Registrar General shall file all notices of marriage and keep them with the records of his office and shall, subject to section 9, also forthwith enter the particulars given in every such notice, together with the date of the notice and the name of the person by whom the notice was given, in the marriage notice book which shall be open for inspection free of charge at all reasonable hours.

(4) If the persons to be married wish to be married-

- (a) by a minister of religion, they shall at the time when notice of marriage is given, notify the Registrar General of the name and address and religion or religious denomination of the minister; or
- (b) by or in the presence of a Registrar they shall at the time when notice of marriage is given to the Registrar General under this section give notice to him of the intended date, time and place of the marriage.

(5) Only a person who is an intended party to the marriage may give notice of the marriage under this section and that person shall on giving such notice pay the fee prescribed in relation thereto to the Registrar General.

(6) The Registrar General may grant a licence under this section not earlier than twenty-one days, nor later than three months after, the receipt by him of notice of the marriage given to him under subsection (1) of this section.

10 Provisions relating to section 5(3) marriages (12, 13 & 14 Geo.6 c.76, s. 27B)

(1) This section applies in relation to any marriage mentioned in section 5(2) of this Ordinance which is intended to be solemnised on the authority of a licence granted by the Registrar General.

(2) The Registrar General shall not enter notice of the marriage in the marriage notice book unless-

- (a) he is satisfied by the production of evidence that both the persons to be married have attained the age of twenty-one; and
- (b) he has received a declaration in the prescribed form by each of those persons, each declaration having been signed and attested in the prescribed manner, specifying their affinal relationship and declaring that the younger of those persons has not at any time before attaining the age of eighteen been a child of the family in relation to the other.

(3) The fact that the Registrar General has received a declaration under subsection (2) of this section shall be entered in the marriage notice book together with the particulars given in the notice of marriage and any such declaration shall be filed and kept with the records of the office of the Registrar General.

(4) Where the Registrar General receives from some person other than the persons to be married a written statement signed by that person which alleges that the declaration made under subsection (2) of this section is false in a material particular, the Registrar General shall not grant a licence unless a declaration is obtained from the Supreme Court under subsection (5) of this section.

(5) Either of the persons to be married may, whether or not any statement has been received by the Registrar General under subsection (4) of this section, apply to the Supreme Court for a declaration that, both those persons having attained the age of twenty-one years and the younger of those persons not having at any time before attaining the age of eighteen been a child of the family in

relation to the other, there is no impediment of affinity to the solemnisation of the marriage; and where such a declaration is obtained the Registrar General may enter notice of the marriage in the marriage notice book and may issue a licence, whether or not any declaration has been made under subsection (2) of this section.

(6) Section 12 of this Ordinance shall not apply in relation to a marriage to which this section applies, except so far as a caveat against the issue of a licence for the marriage is entered under that section on a ground other than the relationship of the persons to be married.

11 Provisions relating to section 5(5) marriages (12, 13 & 14 Geo.6 c.76 s. 27C)

In the case of a marriage mentioned in section 5(4) which by virtue of section 5(5) is valid only if at the time of the marriage both the parties to the marriage have attained the age of twenty-one and the death has taken place of two other persons related to those parties in the manner mentioned in section 5(5), the Registrar General shall not enter notice of the marriage in the marriage notice book unless satisfied by the production of evidence-

- (a) that both the parties to the marriage have attained the age of twenty-one, and
- (b) that both those other persons are dead.

12 Declaration to accompany notice of marriage (12, 13 & 14 Geo.6 c.76, s. 28)

(1) No licence for marriage shall be granted by the Registrar General unless the notice of marriage is accompanied by a solemn declaration in writing, in the body or at the foot of the notice, made and signed at the time of the giving of the notice by the person by whom the notice is given and attested as is mentioned in subsection (2) of this section-

- (a) that he or she believes that there is no impediment of kindred or alliance or other lawful hindrance to the marriage;
- (b) that both of the persons to be married have for the period of seven days immediately before the giving of the notice had their usual places of residence within the Falkland Islands;
- (c) where one of the persons to be married is under the age of eighteen and is not a widower or widow, that the consent of the person or persons whose consent to the marriage is required under section 7 of this Ordinance has been obtained, that the necessity of obtaining any such consent has been dispensed with under that section, that the court has consented to the marriage under that section, or that there is no person whose consent to the marriage is so required.

(2) Any declaration as aforesaid shall be signed by the person giving the notice of marriage in the presence of the Registrar General, some assistant of the Registrar General, or of a person whose name appears upon the electoral register, and the Registrar General, the assistant, or the person whose name appears on the electoral register, as the case may be, shall attest the declaration by adding thereto his name and description, and in the case of a person other than the Registrar General or an assistant of the Registrar General, his address.

13 Caveat against grant of licence (12, 13 & 14 Geo.6 c.76, s. 29)

(1) Any person may enter a caveat with the Registrar General against the grant of a licence for the marriage of any person named therein.

(2) If any caveat is entered as aforesaid, the caveat having been signed by or on behalf of the person by whom it was entered, no licence shall be issued until the Registrar General has examined into the matter of the caveat and is satisfied that it ought not to obstruct the grant of the licence, or until the caveat has been withdrawn by the person who entered it, and if the Registrar General is doubtful whether to issue a certificate he may refer the matter of the caveat to the Attorney General.

(3) Where the Registrar General refuses, by reason of any such caveat as aforesaid, to grant a licence, the person applying therefor may appeal to the Attorney General who shall either confirm the refusal or direct that a licence shall be issued.

(4) Any person who enters a caveat against the issue of a licence on grounds which the Attorney General declares to be frivolous and such that they ought not to obstruct the grant of a licence, shall be liable for the costs of the proceedings before the Attorney General and for damages recoverable by the person against whose marriage the caveat was entered.

(5) For the purposes of enabling any person to recover any such costs and damages a copy of the declaration purporting to be certified as a true copy under the signature of the Attorney General shall be evidence that the Attorney General has declared the caveat to be entered on grounds which are frivolous and such that they ought not to obstruct the issue of the certificate or licence.

14 Forbidding grant of licence

(1) Any person whose consent to a marriage intended to be solemnised on the authority of a licence is required under section 7 of this Ordinance may forbid the issue of a licence, at any time before the issue of the licence, by writing the word "forbidden" opposite to the entry of notice of marriage in the marriage notice book, and by subscribing thereto his name and place of residence and the capacity, in relation to either of the persons to be married, in which he forbids the grant of the licence; and where the issue of the licence has been so forbidden, the notice of marriage and all proceedings thereon shall be void:

Provided that where, by virtue of paragraph (b) of the proviso to section 7(1), the court has consented to the marriage and the consent has the same effect as if it had been given by a person whose consent has been refused, that person shall not be entitled to forbid the grant of a licence for that marriage under this section, and the notice of marriage and the proceedings thereon shall not be void by virtue of this section.

15 Public notice of marriage prior to grant of licence: grant of licence

(1) When notice of a marriage has been given to the Registrar General and has been entered in the marriage notice book, he shall suspend or affix in some conspicuous place in, or immediately outside, his office for twenty-one successive days next after the date on which the notice was entered in the marriage book, the notice of marriage, or an exact copy signed by him of the particulars thereof as entered in the marriage notice book.

(2) At the expiration of the period of twenty-one days, the Registrar General shall grant the licence unless-

- (a) any lawful impediment to the issue of the licence has been shown to the satisfaction of the Registrar General; or
- (b) the grant of the licence has been forbidden under section 14 by any person authorised in that behalf.

(3) Except as may be authorised by a special licence or by an extraordinary licence, no marriage shall be solemnised until after the expiration of twenty-one days after the date on which notice of the marriage was entered in the marriage notice book.

(4) Where the marriage is to be conducted other than by the Registrar General or a minister of religion, the Registrar General shall at the time of grant of the licence hand or send to the person to whom it is issued printed instructions in the prescribed form for the due solemnisation of the marriage.

(5) The prescribed fee shall be paid to the Registrar General on the grant of a licence under this section.

16 Period of validity of licence

(1) A marriage may be solemnised on the authority of a licence granted by the Registrar General at any time within three months from the day on which the notice of the marriage was entered in the marriage notice book.

(2) If the marriage is not solemnised within the said period of three months, the notice of marriage, and any licence which may have been granted thereon, shall be void, and no person shall solemnise the marriage on the authority thereof.

17 Solemnisation of marriage

(1) Subject to this section, where a notice of marriage and licence issued by the Registrar General states that a marriage between the persons named therein is to be solemnised by a minister for religion, the marriage may be solemnised according to such form and ceremony as the minister of religion sees fit to adopt.

(2) A marriage solemnised other than by a minister of religion must be solemnised by or in the sight and hearing of a Registrar.

(3) Every marriage must be solemnised in the presence of two or more witnesses and if solemnised in a building, with unlocked doors.

[S 7/Ord. 6/2017/w.e.f. 29/4/2017]

(4) Save as provided in this subsection, each of the persons contracting the marriage shall, in some part of the ceremony and in the presence of the witnesses-

- (a) make the following declaration-

"I solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD"

- (b) say to the other-

"I, AB, take you, CD, to be my lawful wedded wife" [or husband];

Provided that if the marriage is solemnised-

- (i) by a minister of religion, the forms prescribed in the Book of Common Prayer or the Alternative Service Book (in respect of the Church of England) or in use in the Catholic Archdiocese of Westminster or the form of any religion or religious denomination declared by regulations made under this Ordinance to be an authorised form for the purposes of this section may be used instead of the forms above appearing;
- (ii) by another person in the presence of a Registrar, the words appearing at (b) shall be replaced by the words-

"I call upon these persons here present to witness that I, AB, take you, CD, to be my wedded wife [or husband]".

(5) No religious service shall be used at any marriage solemnised by a Registrar.

(6) If any person is unable to speak anything he is required to say by subsection (3) or (4) of this section, he may signify anything thereby required in another manner (for example by signs or writing).

18 Proof of certain matters not necessary to validity of marriages

Where any marriage has been solemnised under the provisions of this Part of this Ordinance it shall not be necessary in support of the marriage to give any proof-

- (a) that before the marriage either of the parties resided, or resided for any period, in the Falkland Islands; or
- (b) that any person whose consent was required by section 7 of this Ordinance had given his consent,

nor shall evidence be given to the contrary in any proceedings touching the validity of the marriage.

19 Void marriages

If any persons-

- (a) intermarry without having given due notice of the marriage to the Registrar General; or
- (b) other than by authority of a special licence, intermarry without a licence for the marriage having been duly granted by the Registrar General; or
- (c) knowingly and wilfully consent to the solemnisation of the marriage, other than in the presence of a Registrar, by a person who is himself neither a minister of religion authorised under this Ordinance to solemnise marriages nor a Registrar,

the marriage shall be void.

20 Fees for registrars for conducting or attending marriages

Such fees as may be prescribed shall be paid to the Registrar General-

- (a) for the solemnisation by a Registrar of a marriage;
- (b) for the attendance of a Registrar at the solemnisation of a marriage by a person who is not a minister of religion; and
- (c) for any absence exceeding one hour or journey exceeding three miles by a Registrar from his usual address for either of the purposes mentioned above.

PART IV SPECIAL LICENCES AND EXTRAORDINARY LICENCES

21 Grant of special licences by the Governor

(1) Subject to the provisions of this section, the Governor may grant a special licence to the persons named in the special licence authorising the solemnisation of a marriage between them.

(2) The Governor shall not grant a special licence which, if granted, would have the effect of authorising the solemnisation of a marriage-

- (a) to which any provision of section 5 relates (marriages within prohibited degrees); or
- (b) where either of the parties is under the age of eighteen;

and shall not grant a special licence unless he is satisfied that the requirements of section 22 have been complied with.

22 Application for a special licence granted by the Governor

(1) Any person of or over the age of eighteen years and who is free to marry may apply for a special licence under section 21 authorising the solemnisation in the Falkland Islands of a marriage between the applicant and another person named in the application over the age of eighteen years who is free to marry.

(2) An application for such a licence-

- (a) shall be in writing, signed by the applicant;
- (b) shall be sent or delivered to the Registrar General;
- (c) shall be accompanied by-
 - (i) a statutory declaration, made before any person authorised under the law of the Falkland Islands or the place it is made to administer oaths, having the contents required by subsection (3) of this section; and
 - (ii) the prescribed fee.

(3) The contents of the statutory declaration to which subsection (2)(c)(i) of this section refers shall be-

- (a) a statement of the full name of the applicant and of the other party to the proposed marriage ("the other party") and of any other name by which either of them has ever been known;
- (b) the addresses at which the applicant and the other party respectively ordinarily reside (which need not be within the Falkland Islands) and if either of them has been resident at the address so stated in respect of him or her less than three months, any other address at which he or she has ordinarily resided within that period of three months;
- (c) the date, place and country of birth of the applicant and of the other party;
- (d) a statement either-
 - (i) that there is no affinal relationship (relationship by blood or by virtue of marriage or adoption) between the applicant and the other party; or
 - (ii) a statement of any such relationship that exists between the applicant and the other party;
- (e) particulars of any previous marriage of either of the parties and the manner in which it came to an end.

(4) The Registrar General may make such enquiries, consistent with dealing with the application with expedition, as he thinks advisable to make in the circumstances of the case, and subject thereto and the Registrar General having no reason to believe that the marriage to which the application relates would be void, the Registrar General shall forward the application to the Governor with a recommendation that it be granted.

(5) Section 13 (caveat against issue of licence) of this Ordinance shall have effect in relation to the grant of a special licence as it does in respect of a licence granted by the Registrar General.

(6) Subject to section 21(2) of this Ordinance, the Governor acting in his discretion may grant or refuse an application for a special licence as he sees fit.

23 Supplementary to sections 21 and 22

(1) A special licence shall have effect to authorise the solemnisation of a marriage between the persons named therein at any place within the Falkland Islands during the three months following the date of issue of the licence.

(2) A marriage by authority of a special licence shall be solemnised by a minister of religion, a Registrar or a person in the sight and hearing of a Registrar, but may be solemnised on any day of the week and at any time of day.

(3) Sections 17, 18 and 20 of this Ordinance shall apply in respect of marriages solemnised by authority of a special licence.

24 Extraordinary licences by the Registrar General

(1) Subject to this section, the Registrar General may grant an extraordinary licence authorising the solemnisation in the Falkland Islands of the marriage between the persons named in that licence.

(2) The Registrar General shall only grant an extraordinary licence if he is satisfied that one or both of the parties to the proposed marriage to which the licence relates is in imminent danger of death.

(3) Subject to subsection (4), sections 9 to 14, and 16 to 20 of this Ordinance apply in respect of marriages solemnised or intended to be solemnised by authority of an extraordinary licence.

(4) A person applying for the grant of an extraordinary licence shall give notice of marriage as required by section 9 of this Ordinance, incorporating the declaration required by section 10, but instead of giving notice of the intended time and place of the marriage under section 9(3)(b) where the marriage is to be solemnised by or in the presence of a Registrar may state that the marriage is desired to be authorised by an extraordinary licence.

(5) Where notice of marriage has already been given under section 9, with the intention that it shall be solemnised under the authority of a licence granted by the Registrar General under section 15, either of the parties to the proposed marriage may request the Registrar General to grant an extraordinary licence under this section and subject to subsection (6) the Registrar General if he is satisfied that one or both of the parties is in imminent danger of death may grant that licence.

(6) An extraordinary licence may not be granted under this section-

- (a) if the Registrar General believes that there is any lawful impediment to the marriage; or
- (b) if the marriage has been and continues to be forbidden pursuant to section 14 of this Ordinance.

(7) A marriage may not be solemnised under the authority of a licence granted under this section after the expiration of fourteen days from the date of the grant of the licence.

Part IVA
Civil Partnerships

24A. Civil partnerships

- (1) A civil partnership is a relationship between a man and a woman or two people of the same sex (“civil partners”) which is formed when they register as civil partners of each other in terms of section 24C.
- (2) Subsection (1) is subject to section 24H under or by virtue of which a civil partnership is void.
- (3) A civil partnership ends only on death, dissolution or annulment in terms of section 24H.
- (4) The references in subsection (3) to dissolution and annulment are to dissolution and annulment having effect under or recognised in accordance with this Ordinance.

24B. Recognition of civil partnership registered outside the Falkland Islands

A civil partnership registered under the law of a country outside the Falkland Islands is recognised under the laws of the Falkland Islands.

24C. Formation of civil partnership by registration

- (1) For the purposes of section 24A, two people are to be regarded as having registered as civil partners of each other once each of them has signed a civil partnership document —
 - (a) in the presence of a Registrar; and
 - (b) in the presence of each other and two witnesses.
- (2) After the civil partnership document has been signed under subsection (1), it must also be signed, in the presence of the civil partners and each other, by -
 - (a) each of the two witnesses, and
 - (b) a Registrar.
- (3) The Registrar General must maintain a register of civil partnerships and must ensure that the registration of a civil partnership and any other information as may be prescribed by regulations is recorded in the register as soon as is practicable.
- (4) No religious service is to be used while the Registrar is officiating at the signing of a civil partnership document.
- (5) “Civil partnership document” means a document prescribed under section 24D.

24D. Pre-registration process

- (1) Before two people are entitled to register as civil partners of each other —
 - (a) a civil partnership notice in the prescribed form must be delivered to the Registrar; and

- (b) the Registrar may then ask them for any information as may be required including a declaration from the person giving the notice that there is no impediment or lawful hindrance to the formation of the civil partnership.

(2) The Governor may make regulations prescribing —

- (a) any pre-registration procedure;
- (b) a civil partnership notice;
- (c) a civil partnership document;
- (d) the information required under subsection (1)(b) including the declaration to be given; and
- (e) the keeping of records.

24E. Eligibility to register as civil partners

(1) Two people are not eligible to register as civil partners of each other if —

- (a) either of them is already a civil partner or lawfully married;
- (b) either of them is under 16; or
- (c) they are within the prohibited degrees described under section 5 and specified in Schedule 1 and for purposes of this paragraph in section 5 any references to a “man” includes a “woman” and any reference to a “woman” includes a “man”.

(2) The requirements under section 7 in relation to the marriage of persons under eighteen apply to the registration of civil partnerships for people under the age of eighteen.

24F. Proof of certain matters not necessary to validity of civil partnership

The requirements of section 18 in relation to validity of marriages apply to civil partnerships registered under this Ordinance as if in that section a reference to “marriage” is a reference to a “civil partnership”.

24G. Dissolution

(1) Subject to section 24I (*restriction on petitions for dissolutions*) a civil partnership may be dissolved on the ground that it has broken down irretrievably.

(2) The requirements of section 4 of the Matrimonial Causes Ordinance 1979 in relation to the breakdown of a marriage apply to the dissolution of civil partnerships registered under this Ordinance as if in that section a reference to a “marriage” is a reference to a “civil partnership”.

24H. Nullity, death and other proceedings

(1) The requirements under section 19 in relation to void marriages apply to civil partnerships registered under this Ordinance with necessary modifications and applies as if in that section a reference to “marriage” is a reference to a “civil partnership”.

(2) The requirements of sections 14 and 15 of the Matrimonial Causes Ordinance 1979 in relation to grounds on which a marriage is void apply to civil partnerships registered under this Ordinance with necessary modifications and applies as if in that section a reference to a “marriage” is a reference to a “civil partnership”.

(3) The requirements of section 22 of the Matrimonial Causes Ordinance 1979 in relation to presumption of death and dissolution of marriage apply to the dissolution of civil partnerships registered under this Ordinance with necessary modifications and applies as if in that section a reference to “divorce” is a reference to “dissolution of a civil partnership”.

24I. Restriction on petitions for civil partnership dissolutions

The requirements of section 6 of the Matrimonial Causes Ordinance 1979 in relation to restrictions on presenting petitions for divorce apply to the dissolution of civil partnerships registered under this Ordinance with necessary modifications and applies as if in that section a reference to “divorce” is a reference to dissolution of a civil partnership.

24J. Rights, responsibilities and financial relief for civil partners and children of family

(1) A child born to parties in a civil partnership has the same rights as a child born to parties in a marriage solemnised under this Ordinance.

(2) A parent in a civil partnership registered under this Ordinance has the same rights and responsibilities towards a child as a parent to a child in a marriage solemnised under this Ordinance.

(3) Notwithstanding the generality of sections (1) and (2)

- (a) Part III of the Matrimonial Causes Ordinance 1979 in relation to financial relief for parties in a marriage applies to the financial relief for parties in a civil partnership with necessary modifications;
- (b) Part IV of the Matrimonial Causes Ordinance 1979 in relation to the protection, and custody of children to civil partnerships and children of the family applies to civil partnerships with necessary modifications;

24K. Offences

(1) A person commits an offence who —

- (a) registers a civil partnership knowing he or she is not authorised to do;
- (b) refuses or fails to comply with the provisions of this Part or any regulations made under it;
- (c) provides any false information required to be provided to the Registrar under this Part; and
- (d) makes false entries in the register.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for a term not exceeding twelve months.

24L. Miscellaneous

(1) Part V of the Matrimonial Causes Ordinance 1979 in relation to the recognition of overseas divorces and legal separations apply to the recognition of civil partnerships with necessary modifications and in particular sections 48, 49, 50, 51, 53, 54 and 55.

(2) The Governor may make regulations or rules for the better carrying out of the purposes of this Ordinance and in particular, may —

- (a) prescribe forms and other documents which by this Part are to be prescribed;
- (b) prescribe the duties of the Registrar in relation to the registration of civil partnerships;
- (c) provide for fees to be payable for the registration of civil partnerships;
- (d) make rules for all matters of procedure as required by this Part; and
- (e) prescribe anything which by this Part are to be prescribed

[S 6/Ord. 6/2017/w.e.f. 29/4/2017]

PART V GENERAL

25 Appointment of Registrars

(1) The Governor may by writing under his hand appoint any person to be a Registrar, either generally or for the purposes of a particular marriage or marriages, and every such appointment shall be notified in the Gazette.

(2) The Registrar General shall be deemed to have been appointed a Registrar generally for the purposes of this Ordinance.

26 Registration of ministers

(1) Every minister of religion the tenets of which permit only monogamous marriage, who is recognised as a minister by such religion or the denomination of that religion to which he belongs, who is ordinarily resident in the Falkland Islands and who ordinarily officiates as such a minister in a building in the Falkland Islands principally used for religious worship shall be deemed to be a minister registered for the solemnisation of marriages.

(2) The head of any religion or religious denomination in the Falkland Islands the tenets of which permit only monogamous marriage may apply to the Governor for registration of himself or any person of his religion or religious denomination as a minister for the solemnisation of marriages and the Governor, acting in his discretion, by writing under the Public Seal may grant, and may if he sees fit at any time revoke, a certificate of such registration.

(3) Every person who, immediately before the commencement of this Ordinance, was registered as a minister under section 5 of the repealed Ordinance shall, until his registration is revoked, be deemed to have been registered as minister for the solemnisation of marriages under this section.

27 Minister of religion's right to refuse to solemnise a marriage

(1) A minister is not obliged to solemnise any marriage, even though a licence has been granted under this Ordinance in respect of it, and may refuse to do so.

[S 8/Ord. 6/2017/w.e.f. 29/4/2017]

(2) Without prejudice to the generality of subsection (1), a minister may refuse to solemnise a marriage-

- (a) which it would be contrary to his conscience or principles or the tenets or rules of the religion or denomination to which he belongs for him to solemnise; or
- (b) unless-
 - (i) such banns of marriage as he may require are first read on the occasions and at the place or places he stipulates;
 - (ii) the marriage is solemnised in such church or other building as he stipulates.

28 Duty to refuse to solemnise marriage in certain circumstances

Without prejudice to any other reason by relation to which a person may refuse to solemnise a marriage, he shall refuse to solemnise it if-

- (a) he reasonably believes that either of the parties is, at the time in question, incapable for any reason of understanding the nature of the ceremony or of consenting to marriage to the other party; or
- (b) he reasonably believes that either of the parties' consent thereto is obtained by duress.

29 Offences relating to the solemnisation of marriages

(1) A person who solemnises a marriage knowing that he is not authorised to do so commits an offence.

(2) Without prejudice to the generality of the application of subsection (1), it applies in the following situations-

- (a) where the person concerned is neither a Registrar nor a minister authorised to solemnise marriages under this Ordinance;
- (b) where no licence authorising the solemnisation of the marriage has been issued under this Ordinance;
- (c) where the period during which a marriage may lawfully be solemnised under a licence has expired.

30 Regulations

The Governor may make regulations-

- (a) prescribing the duties of the Registrar General, Registrars and others under this Ordinance; and
- (b) prescribing anything which by this Ordinance is to be prescribed.

31 Repeals and savings

(1) The Marriage Ordinance and the Marriage (Enabling) Ordinance 1966 are hereby repealed.

(2) For the sake of avoidance of doubt, it is hereby declared that any banns published, licence or certificate issued, notice, consent, authorisation or direction given, Order, declaration, return, appointment or entry made, registration effected, caveat entered or other thing done under any enactment repealed by this Ordinance, or ceasing to have effect by virtue of this Ordinance, shall, if in force at the commencement of this Ordinance, continue in force, and have effect as if published, issued, given, made, effected, entered or done under the corresponding provision of this Ordinance.

(3) Where a period of time specified in any enactment repealed by, or ceasing to have effect by virtue of this Ordinance, is current at the commencement of this Ordinance, it shall have effect as if the corresponding provision thereof had been in force when that period began to run.

(4) Any document referring to an enactment repealed or ceasing to have effect by virtue of this Ordinance shall be construed as referring to the corresponding provision of this Ordinance.

(5) Nothing in this Ordinance shall adversely affect the validity of any marriage solemnised before the commencement of this Ordinance.

**SCHEDULE
KINDRED AND AFFINITY**

PART I
Prohibited degrees of relationship

Mother	Father
Adoptive mother or former adoptive mother	Adoptive father or former adoptive father
Daughter	Son
Adoptive daughter or former adoptive daughter	Adoptive son or former adoptive son
Father's mother	Father's father
Mother's mother	Mother's father
Son's daughter	Son's son
Daughter's daughter	Daughter's son
Sister	Brother
Father's sister	Father's brother
Mother's sister	Mother's brother
Brother's daughter	Brother's son
Sister's daughter	Sister's son

PART II
Degrees of affinity referred to in section 5(2) and 5(3) of this Ordinance

Daughter of former wife	Son of former husband
Former wife of father	Former husband of mother
Former wife of father's father	Former husband of father's mother
Former wife of mother's father	Former husband of mother's mother
Daughter of son of former wife	Son of son of former husband
Daughter of daughter of former wife	Son of daughter of former husband

PART III

Degrees of affinity referred to in section 5(4) and 5(5) of this Ordinance

Mother of former wife

Father of former husband

Former wife of son

Former husband of daughter