



ST. HELENA

## CHAPTER 80

# MARRIAGE ORDINANCE and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2001

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1999.

This edition contains a consolidation of the following laws—

### **MARRIAGE ORDINANCE**

Ordinances 3 of 1851, 4 of 1886, 9 of 1888, 9 of 1903,  
1 of 1923, 4 of 1926, 11 of 1949, 15 of 1949, 2 of 1967,  
9 of 1967, 8 of 1981 and 10 of 1985

### **MARRIAGE (FEES) ORDER**

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## CHAPTER 80

### MARRIAGE ORDINANCE

*(Ordinances 3 of 1851, 4 of 1886, 9 of 1888, 9 of 1903,  
1 of 1923, 4 of 1926, 11 of 1949, 15 of 1949, 2 of 1967,  
9 of 1967, 8 of 1981 and 10 of 1985)*

AN ORDINANCE RELATING TO MARRIAGE IN ST. HELENA.

#### Commencement

*[13 October 1851]*

#### Short title

1. This Ordinance, may be cited as the Marriage Ordinance.

#### Interpretation

2. In this Ordinance, unless the context otherwise requires—  
“**Chief Justice**” and “**Governor**” shall include all persons lawfully acting as such;  
“**Minister of any church or registered place of worship**” shall include any person authorised by such minister to act in that capacity, being legally competent so to act;  
“**Registrar**” shall include any person authorised by the Governor to act as such Registrar.

#### PART I

##### REGISTRAR-GENERAL

#### Registrar-General to be appointed

3. There shall be a Registrar-General’s office at the Castle at Jamestown for the registration of marriages occurring within St. Helena, including the Dependency of Ascension Island, and the Governor shall from time to time appoint a person to be Registrar-General.

### **Certified copies of extracts to be under hand of Registrar-General**

4. Every certified copy extract from the Register of Marriages of any Registry for delivery to any member of the public shall be issued under the hand of the Registrar-General.

## PART II

### GENERAL

#### **Appointment of Registrars**

5. It shall be lawful for the Governor to appoint a Registrar of Marriages for the Island of St. Helena and for the Dependency of Ascension.

#### **Buildings used for solemnization of marriages to be registered**

6. (1) It shall be lawful for the said Registrar on receiving from any proprietor or trustee of any separate building used as a place of public religious worship, other than that of the Church of the Province of South Africa (otherwise known as “The Church of England” or “the English Church” or “the Church of the Anglican Communion in these parts”) an application that such building may be registered for solemnizing marriages therein, together with a certificate signed by at least twelve householders and countersigned by the said proprietor or trustee, that the said building has been used by the said householders during one year at least as their usual place of public religious worship, or on receiving such application as aforesaid from the Archbishop of Capetown and Metropolitan of the Church of the Province of South Africa, or any person authorised by him in that behalf in regard to any place of worship attached to the aforesaid Church of the Province of South Africa, to register such place of worship for the solemnization of marriages in a book to be provided for that purpose, and the said Registrar shall thereupon give a certificate of such registration and of the date thereof under his hand and written on parchment or vellum, to the person making such application, and shall give public notice of such registry by advertisement in the *Gazette*.

(2) For every such registration, certificate, and publication, the Registrar shall receive at the time of the delivery of the said certificate the prescribed fee:

Provided always that the churches respectively dedicated to Almighty God by the names of St. James and St. Paul, and the office for the time being of the said Registrar, shall be considered for all the purposes of this Ordinance as buildings registered for the solemnization of marriages.

### **Buildings no longer used for religious worship, substituted buildings and fees therefor**

7. (1) If at any time subsequent to the registry of any building for solemnizing marriages therein it shall be made to appear to the satisfaction of the Registrar that such building has been disused for the public religious worship of the congregation on whose behalf it was registered as aforesaid, the Registrar shall cause the registration thereof to be cancelled:

Provided that if it shall be proved to the satisfaction of the Registrar that the same congregation use instead thereof some other such building for the purpose of public religious worship, the Registrar may substitute and register such new place of worship instead of the disused building, although such new place of worship may not have been used for that purpose during one year then next preceding, and such cancellation or substitution, when made, shall be entered in the book provided for the registration of such buildings, and shall be certified and published in manner hereinbefore provided in the case of the original registration of the disused building.

(2) For every such substitution the Registrar shall receive at the time of the delivery of the certificate, from the party requiring the substitution, the prescribed fee, and after such cancellation or substitution shall have been made by the Registrar it shall not be lawful to solemnize any marriage in such disused building unless the same shall be again registered in the manner hereinbefore provided.

### **Notice of intended marriages to be given to Registrar**

8. (1) In every case of marriage intended to be contracted or solemnized one of the parties shall give notice under his or her hand to the said Registrar, in the form in the First Schedule to this Ordinance annexed, or to the like effect, and shall state therein the name, surname, condition, profession and dwelling-place of each of the parties intending the marriage, and whether each of them is of full age or not, and the church or other building in which the marriage is to be had and shall also deliver to the Registrar a signed solemn declaration in the form in the said First Schedule appearing or to like effect touching the several matters therein contained, and the said Registrar shall file every such notice and keep it with the records of his office, and shall also suspend a copy of such notice in a conspicuous place in his office from the time of the entry thereof, until the lawful period for issuing such certificate as hereinafter is mentioned, and shall forthwith enter a true copy of the said notice, together with the date of entering the same fairly into a book, to be called the Marriage Notice Book, which shall be open at all reasonable times without fee to all persons desirous of inspecting the same.

(2) For every such entry the Registrar shall be entitled to receive the prescribed fee.

(3) Notice of a marriage intended to be solemnized at some place elsewhere than in St. Helena under the Foreign Marriage Act, 1892, may be given by one of the parties intending such marriage, who has had his or her usual place of abode for three consecutive weeks immediately preceding in some place in St. Helena, to the Registrar of Marriages in the manner and subject to the conditions in this Ordinance provided.

(4) The Registrar of Marriages, unless he is aware of any impediment or objection which should obstruct the solemnization of the marriage, shall on payment of the fee prescribed give a certificate that the said notice has been so given and published as aforesaid.

### **Certificate of notice to issue after 21 days**

9. At any time not more than three months, nor, except in pursuance of such licence as hereinafter mentioned, less than twenty-one days after the entry of such notice, the said Registrar upon being requested so to do by or on behalf of the party by whom notice was given, and in case no lawful impediment be shown to the satisfaction of the said Registrar why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in manner hereinafter mentioned by any person or persons whose consent is required to the said marriage, shall issue under his hand a certificate according to the form of the Second Schedule hereto annexed, and every such certificate shall state the particulars set forth in the notice, and the day on which the notice was entered, and that the issue of such certificate has not been forbidden by any person or persons whose consent is required to the said marriage, and either that the full period of twenty-one days has elapsed since the entry of such notice or that the marriage is to be had in pursuance of such licence as hereinafter mentioned. For every such certificate the Registrar shall be entitled to receive the fee prescribed.

### **Certificate may issue within 21 days under Governor's licence**

10. It shall be lawful for the Governor at any time after the entry of such notice, if he shall think fit, by licence under his hand to be made in the form provided in the Third Schedule hereto annexed, or to the like effect, to authorise the said Registrar to issue such certificate as aforesaid on or after any day named in such licence:

Provided that for every such licence the party requiring it shall pay the prescribed fee.

### **Consent necessary in case of marriage of minor**

11. The father, if living, of any party to an intended marriage under twenty-one years of age, such party not being a widower or widow, or if the father shall be dead, the guardian or guardians of the person of the party so under age lawfully appointed, or one of them, and in case there shall be no such guardian or guardians then the mother of such party, if

unmarried, shall have authority to give consent to the marriage of such party, and such consent is hereby required for the marriage of such party so under age, unless there shall be no person authorised to give such consent.

### **Forbidding issue of certificate**

12. Any person whose consent is required by law for any marriage may forbid the issue of the said certificate by writing at any time before such issue the word "forbidden" opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode and his or her relationship to either of the parties in respect of whom such consent is required, and in such case, as well the said notice as any certificate which may be afterwards granted thereupon and all other proceedings thereupon shall be utterly void unless the marriage shall have been authorised by the Chief Justice in manner hereinafter provided.

### **Court may consent to marriage in certain cases**

13. In case the person or persons whose consent is required by law for any marriage, not being the father of either of the parties to the marriage, be absent from St. Helena or be unable or refuse to give the same, or being the father of one of such parties is *non compos* or absent from St. Helena, it shall be lawful for the persons desirous of contracting such marriage to apply by petition to the Chief Justice who is hereby empowered to proceed upon such petition in a summary way, and in case the marriage proposed shall, upon examination, appear to him to be proper, the said Chief Justice shall judicially declare by his order in writing that such marriage may be solemnized forthwith; and such order shall for the purposes of this Ordinance be deemed equivalent to such consent as aforesaid.

### **Caveat may be entered**

14. (1) Any person, on payment of the fee prescribed, may enter a caveat with the Registrar against the grant of a certificate for the marriage of any person named in such caveat.

(2) If a caveat be entered with the Registrar, such caveat being duly signed by or on behalf of the person who enters the same, and stating his or her place of residence and the ground of objection on which the said caveat is founded, no certificate shall issue or be granted until the Registrar shall have examined into the matter of the caveat and shall be satisfied that it ought not to obstruct the grant of the certificate for the said marriage, or until the caveat be withdrawn by the party who entered the same:

Provided that in cases of doubt the Registrar may refer the matter of any such caveat to the Chief Justice who shall decide upon the same:

Provided likewise, that in case of the Registrar refusing the grant of the certificate, the person requiring the same shall have a right to apply to the Chief Justice by petition, who shall thereupon proceed in a summary way either to confirm the refusal or direct the grant of the certificate.

### **Ministers may solemnize marriages during certain hours and after declaration**

**15.** On the delivery of such certificate to the minister of or officiating in any registered place of worship named therein, it shall be lawful for such minister to solemnize a marriage in such building between the parties named in such certificate:

Provided always that such marriage shall be solemnized with open doors, between the hours of eight in the forenoon and six in the afternoon, and in the presence of two or more credible witnesses besides the said minister, and whenever the form of solemnization shall be other than that of the Church of England, each of the parties shall in some part of the ceremony and in the presence of such minister and witnesses make the following declaration—

“I do solemnly declare that I know not of any lawful impediment why I, A. B., may not be joined in matrimony to C. D. here present,” 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 thee, C. D., to be my lawful wedded wife [or husband]”:

Provided also that there be no lawful impediment to the marriage of such parties.

### **Marriages before Registrar**

**16. (1)** The parties named in such certificate may if they shall prefer it, contract marriage at the office and in the presence of the said Registrar, and of two other witnesses, with open doors, and between the hours by section 15 prescribed, making the declaration and using the form of words therein provided.

**(2)** The Registrar shall be entitled for every marriage which shall be so contracted in his presence to receive from the parties marrying, the fee prescribed.

### **Certificate of notice or licence void after 3 months from notice**

**17.** Whenever a marriage shall not be had within three calendar months after notice thereof shall have been entered by the Registrar, the notice and any licence or certificate which may have been granted thereupon and all other proceedings thereupon shall be utterly void, and no person shall proceed to solemnize the marriage, nor shall any Registrar register the same, until new notice shall have been given and

entry made and certificate thereof given at the time and in the manner aforesaid.

### **No evidence of consent necessary after marriage**

18. After any marriage shall have been contracted it shall not be necessary in support of such marriage to give any proof of the consent of any person whose consent thereunto is required by law, nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

### **Clergy not compellable to solemnize marriage**

19. No clergyman or minister shall be compellable to solemnize marriage between persons either of whom shall not be a member of his own communion, nor otherwise than according to the rules or custom of such communion, nor unless he shall be satisfied by the declaration of the parties or otherwise that the proposed marriage is consistent with such rules or custom.

### **Entry of marriages in places of worship**

20. Immediately after the solemnization of any marriage by the minister of any registered place of worship, the said minister shall enter into a book to be kept for that purpose in the said place of worship, a statement of the said marriage in the form and comprising the particulars set forth in the Fourth Schedule annexed to this Ordinance, or to a like effect; which entry shall be signed by the said minister and by the parties married, and by two credible witnesses of the said marriage, and the said minister shall forthwith transmit to the Registrar for the district in which the registered place of worship is situate a duplicate of such statement similarly signed, and all such statements shall be filed by the said Registrar and duly preserved in his office.

### **Registration of marriages**

21. (1) Every Registrar shall forthwith enter the above-mentioned particulars of every marriage contracted in his presence, and (with the word " copy " prefixed) all statements of marriages so transmitted to him as aforesaid into a Marriage Register Book, which shall be made out in the form provided by the Fourth Schedule annexed to this Ordinance, and every entry of such marriage contracted in the presence of the said Registrar shall be signed by him, and by the parties married, and by two credible witnesses, and all entries made in the said book shall be made in order from the beginning to the end thereof, and every such entry under the hand of the Registrar, or any copy thereof certified under the hand of the Registrar-General, shall be good evidence of the facts recorded therein, in pursuance of this Ordinance, before all courts and in all proceedings before or in which it may be necessary to give evidence of the marriage to which the same shall relate.

(2) Every Registrar upon registering any marriage as in the last preceding sub-section provided shall forthwith transmit to the Registrar-General a duplicate of such entry in the register duly certified by such Registrar under his hand to be a true copy of such entry; and such duplicate shall be duly preserved in the office of the Registrar-General.

### **Marriages *in articulo mortis***

22. (1) Notwithstanding anything in this Ordinance contained, it shall be lawful for any authorised minister to perform the ceremony of marriage between any persons, without notice given of the intended marriage or without a certificate duly issued by the Registrar, provided that both the parties between whom the ceremony of marriage shall be performed shall, at the time of the performance thereof, be of full age and be legally competent to contract marriage and be able to signify their consent thereto, and provided also that one at least of them, to the best of the knowledge and belief of such minister and of the other persons signing the certificate herein-after required, shall be, at the time of the performance of such ceremony, in a dying state and that such dying person shall be a member of the religious communion or denomination to which such minister belongs.

(2) Immediately after the solemnization of any such marriage the officiating minister shall transmit to the Registrar a certificate of such marriage in the form given in the Fifth Schedule hereto, signed by such minister and by two credible witnesses present at the said marriage. Such certificate shall be filed by the Registrar in a register to be specially kept for the purpose and he shall transmit a copy thereof to the Registrar-General as provided in section 21(2).

(3) Subject to the observance of the foregoing conditions, a marriage solemnized under the provisions of this section shall be and be held to be good and effectual in law.

(4) No marriage solemnized under the provisions of this section shall operate as a revocation of any will.

(5) For the purposes of this section “**authorised minister**” means any minister authorised to solemnize marriages in a place of worship registered under this Ordinance.

### **Registers may be searched**

23. It shall be lawful for all persons at all reasonable times and on payment of the fees prescribed to search the entries in the said Marriage Register Books, and the files of such statements as aforesaid in the presence of the Registrar, and to have true copies certified under the hand of the said Registrar-General of any such entries or statements.

PART III

OFFENCES

**Clandestine marriage void**

24. If any persons shall knowingly and wilfully intermarry under the provisions of this Ordinance in any place other than the office or building specified in the notice and certificate aforesaid, or without such due notice given, or without certificate of such notice duly issued, or if the parties to any marriage are within the prohibited degrees of consanguinity or affinity, the marriage of such persons shall be null and void.

**Under-age marriages**

25. A marriage solemnized between persons either of whom is under 16 years of age shall be void. (*Inserted by Ord. 9 of 1967*)

**Frivolous entry of caveat**

26. Every person who shall enter a caveat with the Registrar against the issue of any certificate, on grounds which the Registrar shall declare in writing under his hand to be frivolous, shall be liable for the costs of the proceedings and for damages to be recovered in a special action on the case by the party against whom such caveat shall have been entered.

**Failure to register or render return of marriages**

27. Every minister who shall fail to transmit to the Registrar the statement required by section 20 of this Ordinance, within one week after solemnization of the marriage to which such statement relates, and every Registrar who shall fail to register any such marriage within one week of receiving such statement or who shall fail to register any marriage contracted before him on the day on which the same shall have been contracted, shall be liable for every such offence on being convicted thereof to a fine not exceeding £10.

**False declarations**

28. Every person who shall knowingly and wilfully make any false declaration, or sign any false notice or certificate required by this Ordinance, for the purpose of procuring any marriage, and every person who shall forbid the issue of any Registrar's certificate by falsely representing himself or herself to be a person whose consent to such marriage is required by law, knowing such representation to be false, shall suffer the penalties of perjury.

### **Irregular procedure**

**29.** Any person who shall knowingly and wilfully solemnize any marriage, not being legally competent so to do, or between parties not legally competent to contract the same, or in any other place than the building or office specified in the notice and certificate aforesaid, or before the issue of such certificate, or after the expiration of three months from the entry of such notice as aforesaid; and any Registrar who shall knowingly and wilfully issue any certificate of marriage, except within the period allowed by this Ordinance for issuing the same, or any certificate the issue of which shall have been forbidden in manner aforesaid by any person authorised so to forbid the same, or who shall knowingly and wilfully register or allow to be contracted in his presence any marriage herein declared to be null and void, shall be guilty of felony.

### **Destruction and forgery of documents**

**30.** Any person who shall unlawfully and maliciously erase, obliterate or destroy or who shall knowingly and wilfully forge or alter or falsely make or procure to be forged, altered or falsely made any notice, licence, certificate, entry or statement mentioned in this Ordinance or any certified copy thereof respectively, or shall knowingly and wilfully utter or publish as true any such forged, false or altered copy, shall be liable for every such offence, on being convicted thereof, to be imprisoned for any term not less than three or exceeding eighteen calendar months.

### **Marriage pursuant to false notice, etc**

**31.** If any valid marriage shall be had under the provisions of this Ordinance by means of any wilfully false notice, oath or declaration made by either party to such marriage, as to any matter to which a notice, oath or declaration is herein required, it shall be lawful for the Attorney General of St. Helena, by information, at the relation of a parent or guardian of the minor whose consent has not been given to such marriage, and who shall be responsible for any costs incurred in such suit, such parent or guardian previously making oath as is hereinafter required, to sue for a forfeiture of all estate or interest in any property accruing to the offending party by such marriage; and the Chief Justice shall have power in such suit to declare such forfeiture and thereupon direct that all such estate and interest or any such part thereof as to the court shall seem fit shall be secured in such manner as to the said court shall seem fit for the benefit of the innocent party, or of the said innocent party and the issue of the marriage or any of them or, if both parties to the said marriage shall in the judgment of the court be guilty of any such offence as aforesaid, then for the benefit of the issue of the said marriage subject to such provisions for the offending parties by way of maintenance or otherwise as the said court shall think reasonable:

Provided, nevertheless, that no such suit as aforesaid shall be instituted unless it shall have been first made out to the satisfaction of the said Attorney General, by the oath of some person whose consent was required by law to the said marriage or by his or her solemn affirmation made in lieu of an oath, that the circumstances of the case are such as to authorise the institution of such proceedings and that the consent required by law for such marriage had not been obtained and that the person making such oath or affirmation had not discovered that the said marriage had been contracted more than three months before making the same.

### **Limitation of time for prosecutions**

**32.** No prosecution under this Ordinance shall be commenced after the expiration of three years after the offence shall have been committed.

### **Fees**

**33.** The Governor in Council may by Order prescribe the fees or charges payable in respect of any act or thing done under this Ordinance. (*Inserted by Ord. 10 of 1985*)

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FIRST SCHEDULE

(Section 8(1))

FORM OF NOTICE OF MARRIAGE

To the Registrar of Marriages in the Island of St. Helena

I, the undersigned ..... hereby give you notice, that a marriage is intended to be had without [or by, as the case may be] Licence within three calendar months from the date hereof between me and the other party herein named and described; (that is to say):—

Table with 7 columns: Name and Surname, Condition, Rank or Profession, Age, Dwelling Place, Church or Building in which Marriage is to be solemnized, Consent, if any by whom given.

And I hereby solemnly declare, that I believe there is no impediment of kindred or alliance or other lawful hindrance to the said marriage (and that I the above-named ..... have my usual place of abode and residence in the Ecclesiastical District of in the Parish of .....).

[And I further declare that I am not a minor under the age of twenty-one years, and that the other party herein named and described is not a minor under the age of twenty-one years.

(If one or both of the parties be under age these words must be expunged.)] (Or, as the case may be.)

And I further declare that she [or I] the said ....., not being a widow [or widower], is [or am] a minor under the age of twenty-one years, and that the consent of ....., whose consent to her [or my] marriage is required by law, has been duly given and obtained thereto [or "that there is no person whose consent to her (or my) marriage is by law required" (as the case may be)].

And I make the foregoing declarations solemnly and deliberately, conscientiously believing the same to be true, well knowing that every person who shall knowingly or wilfully make and sign or subscribe any false declaration or who shall sign any false notice or certificate for the purpose of procuring any marriage shall suffer the penalties of perjury.

In witness whereof I have hereunto set and subscribed my hand this day of ..... in the year of Our Lord 20..... .

Signed and declared by the abovenamed ..... } in the presence of .....

[Here let the witness attest the signature of the party giving the notice.]

**SECOND SCHEDULE**

(Section 9)

**REGISTRAR'S CERTIFICATE**

I, ....., Registrar of Marriages in the Island of St. Helena, do hereby certify that on the ..... notice was duly entered in the Marriage Notice Book of the said Island, of the marriage intended between the parties therein named and described. Delivered under the hand of ....., one of the parties, that is to say—

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Place of Worship in which marriage is to be solemnized.

Date of notice entered ..... }  
 Date of certificate given ..... }

The issue of this certificate [when the certificate is issued under licence from the Governor, insert "is authorised by licence of the Governor and"] has not been forbidden by any person authorised to forbid the issue thereof.

Witness my hand this .....

(Signed) ....., Registrar.

This certificate will be void unless the marriage is solemnized on or before .....

[The blanks in this Schedule to be filled up as the case may be.]

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**FIFTH SCHEDULE**

(Section 22)

MARRIAGE IN ARTICULO MORTIS

I, the undersigned minister of <sup>(1)</sup> ..... authorized to solemnize marriages in <sup>(2)</sup> ..... and we the undersigned ..... of <sup>(3)</sup> ..... and ..... of <sup>(3)</sup> ..... being of the age of twenty-one years or more do hereby certify that on the ..... day of ....., 20....., the ceremony of marriage was performed by the said minister in the presence of the said witnesses between ..... of <sup>(4)</sup> ..... and ..... of <sup>(4)</sup> ..... and that both the said ..... and ..... at the time of the performance of such ceremony were of full age and were legally competent to contract marriage and to signify their consent thereto, and the said <sup>(5)</sup> ..... is a member of the same religious communion or denomination to which the said minister belongs, that is to say, the <sup>(6)</sup> .....; and that at the time of the performance of such Ceremony the said <sup>(7)</sup> ..... was, to the best of our knowledge and belief, in a dying state.

Signatures—

- <sup>(1)</sup> *State residence*
  - <sup>(2)</sup> *State registered place of Worship*
  - <sup>(3)</sup> *State residence and profession*
  - <sup>(4)</sup> *State names, surnames and where widower or widow*
  - <sup>(5)</sup> *Name of party in dying state*
  - <sup>(6)</sup> *Religious communion or denomination*
  - <sup>(7)</sup> *Name of party in dying state*
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**MARRIAGE (FEES) ORDER – SECTION 33**

*(Legal Notice 4/1997)*

**Commencement**

*[1 April 1997]*

**Short title**

1. This order may be cited as the Marriage (Fees) Order.

**New fees**

2. The following fees are prescribed for the purposes of the Ordinance—
  - (a) For every certified copy of an entry in the Register ..... £2
  - (b) For entering a notice of intended marriage ..... £2
  - (c) For issuing a certificate pursuant to notice of intended marriage ..... £2
  - (d) For every search of the Register ..... Such fee as the Registrar may assess, not exceeding £20
  - (e) For every Governor's Licence ..... £20
  - (f) For contracting marriage before a Registrar ..... £15
  - (g) For lodging a caveat ..... £5
  - (h) For registering any building to be used for the solemnization of marriages ..... £20
  - (i) For registering any substituted building ..... £20

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