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3rd SESSION, 62nd GENERAL ASSEMBLY  
Province of Prince Edward Island  
54 ELIZABETH II, 2005

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**BILL NO. 12**

**An Act to Amend the Marriage Act**

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Honourable J. Chester Gillan  
Minister of Health

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GOVERNMENT BILL

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**An Act to Amend the Marriage Act**

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

**1. Section 1 of the *Marriage Act* R.S.P.E.I. 1988, Cap. M-3 is amended**

**(a) by the repeal of clause (a) and the substitution of the following:**

(a) “designated justice of the peace” means a justice of the peace who is designated under the *Provincial Court Act* as a justice of the peace who may solemnize marriages under this Act; designated justice of the peace

(a.1) “Director” means the Director of Vital Statistics appointed under the *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1; Director

**(b) by the repeal of clause (b.1) and the substitution of the following:**

(b.1) “marriage commissioner” means a person who holds a marriage commissioner’s license that is in effect; marriage commissioner

(b.2) “marriage commissioner’s license” means a marriage commissioner’s license issued under subsection 8.1(1); marriage commissioner’s license

**2. Section 3 of the Act is amended**

**(a) by the deletion of the word “or” following clause (a);**

**(b) by the repeal of clause (b) and the substitution of the following:**

- (b) a judge of the Supreme Court;
- (c) a designated justice of the peace;
- (d) the prothonotary, or the deputy prothonotary, of the Supreme Court; or
- (e) a marriage commissioner;

**3. The Act is amended by the addition of the following after section 8:**

**8.1** (1) The Director may, on application, issue a marriage commissioner’s license to any person authorizing that person to act as a marriage commissioner for the province, if Marriage commissioner

- (a) the application is submitted to the Director in the form, and containing the information, required by the Director;
- (b) the person pays the fee required by the regulations; and
- (c) the Director is satisfied that the person
  - (i) is 18 years of age or over, and
  - (ii) meets any other qualifications or requirements established by the regulations.

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| Term of license                                      | (2) A marriage commissioner's license shall specify the date it commences to have effect, and such a license expires three years from the date on which it is specified to have come into effect unless it is sooner cancelled.  |
| Renewal  | (3) A marriage commissioner may, prior to the expiry of his or her marriage commissioner's license, apply to the Director for the renewal thereof, and if the Director has no reason to believe that the marriage commissioner is in violation of this Act or the regulations the Director shall renew the marriage commissioner's license upon payment of the prescribed fee.   |
| Lapse  | (4) A person who fails to renew his or her marriage commissioner's license on or before the date of its expiry to the Director, ceases, upon the expiry of the marriage commissioner's license, to be entitled to solemnize a marriage under this Act.   |
| Late renewal Re-application of the expiry of license | (5) Where the marriage commissioner's license of a person expires before it is renewed under subsection (3), the person must, if he or she wishes to be issued a new marriage commissioner's license, make an application under subsection (1).  |
| Cancellation   | (6) The Director may, at any time, cancel the marriage commissioner's license of a marriage commissioner where the Director is satisfied that <ul style="list-style-type: none"> <li>(a) the marriage commissioner has failed to comply with a provision of this Act or the regulations or a request of the Director made under subsection (4); or</li> <li>(b) the cancellation is otherwise in the public interest.</li> </ul> |
| Fee  | (7) A marriage commissioner who solemnizes a ceremony of marriage is entitled to receive from the parties to the marriage any fee for his or her services as may be agreed upon by the marriage commissioner and the parties to the marriage.  |

#### **4. (1) Subsection 9(1) of the Act is amended**

- (a) by the deletion of the words "or judge of the Supreme Court" and the substitution of the words ", justice or marriage commissioner"; and**

**(b) in clause (a), by the addition of the words “, justice or a marriage commissioner” after the words “by the member”.**

**(2) Subsection 9(2) of the Act is amended by the deletion of the words “or judge of the Supreme Court” and the substitution of the words “, justice or marriage commissioner”.**

**(3) Section 9 of the Act is amended by the addition of the following after subsection (2):**

- (3) In this section and section 10, “justice” means
- (a) a judge of the Supreme Court;
  - (b) a designated justice of the peace; and
  - (c) the prothonotary, and the deputy prothonotary, of the Supreme Court.
- Justice

**5. Section 10 of the Act is repealed and the following substituted:**

**10. (1) No particular form of ceremony is required in the solemnization of a marriage by a justice or a marriage commissioner except that**

Civil ceremony -  
form, procedure

(a) in some part of the ceremony, in the presence of the justice or the marriage commissioner who is solemnizing the marriage and the witnesses,

(i) each of the parties shall declare: “I do solemnly declare that I do not know of any lawful impediment why I, \_\_\_\_\_, (full name of party), may not be joined in matrimony to \_\_\_\_\_ (full name of other party).”, and

(ii) each of the parties shall say to the other: “I call on those persons present to witness that I, \_\_\_\_\_, (full name of party) do take you, \_\_\_\_\_, (full name of other party) to be my lawful wedded “husband”, “wife” or “spouse” (as the parties may prefer).”; and

(b) after the declarations and statements required by clause (a) have been made, the justice or the marriage commissioner solemnizing the marriage shall say: “I, \_\_\_\_\_ (full name of the justice or the marriage commissioner), by virtue of the powers vested in me by the Marriage Act, do hereby pronounce you \_\_\_\_\_ (full name of party) and \_\_\_\_\_ (full name of other party) to be “husband and wife”, “married” or “married spouses” (as the parties may prefer).”

(2) Where the parties to a marriage solemnized by a justice or a marriage commissioner desire a religious ceremony in addition to the civil ceremony conducted by the justice or marriage commissioner, a

Religious ceremony  
after civil ceremony

certificate of solemnization of marriage given by the justice or marriage commissioner is sufficient authority for a member of the clergy to perform the religious ceremony.

Effect

(3) A religious ceremony performed as mentioned in subsection (2) is in addition to and does not supersede the solemnization of the marriage by the justice or marriage commissioner and this Act does not apply to such a religious ceremony, nor shall it be registered under the *Vital Statistics Act* as a marriage.

**6. Subsection 11(2) of the Act is amended by the deletion of the words “certificate of the marriage” and the substitution of the words “certificate of solemnization of marriage”.**

**7. The Act is amended by the addition of the following after section 11:**

Refusal to solemnize

**11.1** For greater certainty, a person who is authorized to solemnize a marriage under this Act may refuse to solemnize a marriage that is not in accordance with that person’s religious beliefs.

**8. Subclause 14(1)(c)(ii) of the Act is repealed.**

**9. Section 25 of the Act is amended by the addition of the following after clause (a):**

(a.1) respecting the necessary qualifications or requirements for persons appointed as marriage commissioners;

(a.2) respecting the fee payable for an application for or the renewal of a marriage commissioner’s license;

#### CONSEQUENTIAL AMENDMENTS

**10. Section 14 of the *Provincial Court Act* 1988, R.S.P.E.I. Cap. P-25 is amended**

**(a) by the addition of the following after subsection (1.1):**

Designation for purposes of the *Marriage Act*

(1.2) When making an appointment of a justice of the peace under subsection (1), the Lieutenant Governor in Council may designate the justice of the peace as a justice of the peace who may perform marriage ceremonies under the *Marriage Act*.

**(b) in subsection (3), by the addition of the words “, and whether the justice of the peace is designated as a justice of the peace who may solemnize marriages under the *Marriage Act*” after the words “issue a certificate to the person specifying thereon the name, address and term of office of the justice of the peace”.**

**11. This Act comes into force on a day that may be fixed by proclamation of the Lieutenant Governor in Council.**

## EXPLANATORY NOTES

**Section 1** adds definitions for a “designated justice of the peace”, a “marriage commissioner”, and a “marriage commissioner’s license”.

**Section 2** makes amendments that allow designated justices of the peace and marriage commissioners to solemnize marriages.

**Section 3** establishes a licensing scheme for marriage commissioners.

**Section 4** replaces references to a “judge of the supreme court” with references to a “justice or a marriage commissioner”. This change is required to recognize the ability of marriage commissioners to conduct civil marriage ceremonies and to recognize that justices of the peace may, in addition to judges of the supreme court and prothonotaries, may conduct civil marriage ceremonies.

**Section 5** makes wording changes to a provision dealing with the procedure for civil ceremonies. These changes recognize a wider scope of persons who may solemnize civil marriages under the Act. These changes also give the parties to a marriage some options with respect to how they will be referred to during the required declarations and statements of the civil ceremony.

**Section 6** corrects a wording inconsistency in respect of the name of a certificate.

**Section 7** clarifies that a person who is authorized to solemnize a marriage under this Act may refuse to solemnize any marriage that is not in accordance with the person’s religious beliefs.

**Section 8** repeals a provision that refers to the *Premarital Health Examination Act*. This Act will be repealed by another Act this fall.

**Section 9** adds the power to make regulations respecting the qualifications required for marriage commissioners and the fees they must pay for their licenses;

**Section 10** makes consequential amendments to the *Provincial Court Act* for the purpose of allowing the Lieutenant Governor in Council to designate justices of the peace as persons who may solemnize a marriage.

**Section 11** provides for the commencement of this Act by proclamation.

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| <i>STAGE:</i>                | <i>DATE:</i>      |
|------------------------------|-------------------|
| <i>1st Reading:</i>          | November 17, 2005 |
| <i>2nd Reading:</i>          |                   |
| <i>To Committee:</i>         |                   |
| <i>Reported:</i>             |                   |
| <i>3rd Reading and Pass:</i> |                   |
| <i>Assent:</i>               |                   |

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