

THE BRITISH ANTARCTIC TERRITORY

THE MARRIAGE ORDINANCE 2016

Ordinance No. **X** of 2016

An Ordinance to regulate the solemnisation of marriages in the Territory and to provide for matters incidental thereto.

Section	Arrangement of sections	Page
1.	Short title and commencement.	2.
2.	Definition.	2.
3.	Valid marriages.	2.
4.	Law relating to capacity to marry, etc.	2.
5.	Marriage officers.	2.
6.	Place and time of solemnisation of marriages.	3.
7.	Religious ceremony.	3.
8.	Registrar General may grant marriage licence.	3.
9.	Effect of marriage licence.	4.
10.	Solemnisation of marriage.	4.
11.	Registration of marriage.	4.
12.	Duty to ascertain capacity.	4.
13.	Offences.	5.
14.	Rules.	5.
15.	Exclusion of law of England on solemnisation of marriages.	5.
16.	Repeal.	6.

ENACTED by the Commissioner for the British Antarctic Territory

[] July 2016

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Peter Hayes
Commissioner

THE BRITISH ANTARCTIC TERRITORY

Ordinance No. **X** of 2016

- Short title and commencement. 1. This Ordinance may be cited as the Marriage Ordinance 2016 and shall come into force forthwith.
- Definition. 2. “Registrar General” shall have the meaning assigned to it by section 2 of the Registration Ordinance 2016.
- Valid marriages. 3. Subject to section 4, every marriage solemnised in the Territory by a marriage officer after the commencement of this Ordinance and in accordance with its provisions shall be a valid marriage.
- Law relating to capacity to marry, etc. 4. The law of England, as for the time being in force in England, relating to –
- (a) the capacity of a person to marry;
 - (b) the capacity of persons to marry each other;
 - (c) the requirement for the prior consent of a person to be given to the marriage of another person; and
 - (d) the legal effect, in the case of any purported marriage, of the absence of such capacity or such consent,
- shall be the law relating to those matters in force in the Territory.
- Marriage officers. 5. (1) Every magistrate shall *ex officio* be a marriage officer.
- (2) The Commissioner may, on receipt of:
- (a) a completed application in the form set out in Schedule 1; and
 - (b) the prescribed fee (if any),
- appoint a person, by notice published in the *Gazette*, to be a marriage officer for a period not exceeding 12 months.
- (3) In appointing a person to be a marriage officer pursuant to subsection (2), the Commissioner may limit the functions of that appointment to any particular place or area.
- (4) Any person appointed as a marriage officer pursuant to subsection (2) may resign his appointment by notice in writing to the Commissioner.
- (5) The Commissioner may refuse to appoint any person as a marriage officer and may at any time cancel the appointment of any person as a marriage officer, and shall not be required to –
- (a) give any reason for such refusal or cancellation, or
 - (b) refund in part, or whole, any fees that may have been paid.

Place and time of solemnisation of marriages.

6. (1) A marriage may be solemnised at any place that the marriage officer considers suitable, either within the Territory or on board a ship within the territorial waters of the Territory, subject to any limitations imposed in accordance with section 5(3).

(2) Subject to section 9(1), a marriage may be solemnised at any time.

Religious ceremony.

7. Nothing in this Ordinance shall prevent the solemnisation of a marriage in the Territory by a religious ceremony after it has been solemnised in accordance with this Ordinance.

Registrar General may grant marriage licence.

8. (1) The Registrar General, acting in his discretion, may, subject to his being satisfied that the conditions set out in subsection (2) are met, grant a marriage licence for a marriage to be solemnised in accordance with this Ordinance.

(2) The conditions referred to in subsection (1) are –

- (a) that one of the parties to an intended marriage has made and signed an application in writing for a marriage licence in accordance with this section; and
- (b) the fee prescribed on making such an application has been paid.

(3) The application required by subsection (2)(a) shall contain the following information relating to each of the parties –

- (a) full name;
- (b) whether or not under the age of 18 (or other age for the time being specified by the law in force in accordance with section 4 as the age below which a person may not marry without the prior consent of some other person);
- (c) whether bachelor, spinster, widower, widow or divorced;
- (d) rank or profession;
- (e) residential address; and
- (f) any other information required by the Registrar General.

(4) Where, under the law in force in accordance with section 4, the prior consent of some other person is required for the marriage of one of the parties to the intended marriage, the application required by subsection (2)(a) shall be accompanied by evidence, to the satisfaction of the Registrar General, that such consent has been given.

(5) The application required by subsection (2)(a) shall contain a declaration that the applicant believes –

- (a) that the information which it contains, and the evidence (if any) which accompanies it in accordance with subsection (4), is true in every respect; and
- (b) that there is no impediment or lawful objection by reason of any kindred, relationship or alliance or any former marriage or want of consent or any other lawful cause to the marriage of the parties named in the application.

(6) The Registrar General may refuse to grant a marriage licence

and may at any time prior to the marriage so licensed rescind the marriage licence, and shall not be required to –

- (a) give any reason for such refusal or rescinding, or
- (b) refund in part, or whole, any fees that may have been paid.

(7) A marriage licence shall, as nearly as possible be in the form set out in Schedule 2 to this Ordinance.

(8) If granted, a marriage licence may be sent to the applicant either in paper, or in an electronic format, or both, at the discretion of the Registrar General after hearing any views the applicant may wish to make.

Effect of marriage licence.

9. (1) A marriage licence granted pursuant to section 8 shall have the effect of authorising any marriage officer to solemnise a marriage to which the marriage licence relates within three months from the date of such licence, save that no marriage shall be solemnised until at least 24 hours have elapsed since the granting of the marriage licence.

(2) On the expiry of the period of three months referred to in subsection (1) a marriage licence shall cease to be valid.

(3) A marriage officer may proceed to solemnise a marriage on production of an electronic version of a marriage licence, if he is satisfied that it is an accurate representation of a valid marriage licence to which the marriage relates.

Solemnisation of marriage.

10. (1) Subject to subsection (2), every marriage shall be solemnised by a marriage officer duly authorised in accordance with section 9, in the presence of two witnesses and according to such form and ceremony as the parties thereto, with the concurrence of the marriage officer, choose to adopt.

(2) Each of the parties to the marriage shall, in some part of the ceremony and in the presence of the marriage officer and the witnesses, make the following declaration –

"I do solemnly declare that I do not know of any lawful impediment why I, A B, may not be joined in matrimony to C D";

and each therein shall say to the other:

"I, A B, do take you, C D, to be my lawful wedded wife (*or* husband)".

Registration of marriage.

11. Every marriage solemnised in the Territory in accordance with this Ordinance shall be registered in accordance with Part V of the Registration Ordinance 2016.

Duty to ascertain capacity.

12. (1) It shall be the duty of every marriage officer before solemnising any marriage to satisfy himself as far as reasonably possible that –

- (a) neither of the parties to such marriage is for any reason incapable at the material time of understanding the nature and effect of the marriage ceremony and the marriage; and

(b) neither party to the marriage will be entering into the marriage by reason of any duress, coercion or threat made or applied to him or her.

(2) A marriage officer who has reasonable cause to believe that either party to a proposed marriage, immediately before such marriage is to take place is for any reason incapable at the material time of understanding the nature and effect of the marriage ceremony and the marriage, or is acting under duress, coercion or threat made or applied to him or her, shall refuse to solemnise such marriage until he is satisfied to the contrary.

Offences.

13. (1) Any person who, for the purpose of procuring the solemnisation of a marriage, makes and signs an application under section 8(2)(a) or makes a declaration under section 8(5) which he knows to be false or misleading in any particular shall be guilty of an offence under this Ordinance and shall, on conviction, be liable to a term of imprisonment not exceeding 2 years or to a fine not exceeding £5,000 or to both such imprisonment and such fine.

(2) Any person who –

- (a) pretends to be or acts as a marriage officer, magistrate or Registrar General in the exercise of the functions, powers or duties or any of them under this Ordinance, not being authorised by this Ordinance or any other written law so to act; or
- (b) being a marriage officer, knowingly solemnises or purports to solemnise any marriage which he is not authorised by this Ordinance to solemnise;

shall be guilty of an offence under this Ordinance and shall, on conviction, be liable to a term of imprisonment not exceeding 2 years or to a fine not exceeding £5,000 or to both such imprisonment and such fine.

Rules.

14. The Commissioner may make rules for carrying into effect the provisions of this Ordinance and, without derogation from the generality of the power hereby conferred, such rules may prescribe –

- (a) the fees to be paid for the appointment of a person to marriage officer,
- (b) the fees to be paid on application for a marriage licence,
- (c) the conditions under which marriage officers are to safeguard any marriage certificates in their charge, and
- (d) the conditions for the retention by marriage officers of any marriage certificates which have been filled in or for their transmission to the Registrar General.

Exclusion of law of England on solemnisation of marriages.

15. (1) For the avoidance of doubt it is hereby declared –

- (a) that the foregoing provisions of this Ordinance (being "specific laws" within the meaning of that term in section 5 of the Administration of Justice Ordinance 1990) exclude the operation as part of the law of the Territory, by virtue of section 5(1)(b) of that Ordinance, of the law of England specifically regulating the solemnization of marriages; but
- (b) that the law of England, as for the time being in force in

England, is otherwise in force in the Territory by virtue of the said section 5(1)(b) for the purposes of the administration and enforcement of this Ordinance.

(2) Subsection (1) is without prejudice to section 4 (which provides for the law of England relating to certain matters to be the law relating to those matters in force in the Territory) or to the application of the law of England as part of the law of the Territory, by virtue of the said section 5(1)(b), in so far as it relates to marriages other than marriages solemnised in the Territory.

Repeal.

16. (1) The Marriage Ordinance 1990 is hereby repealed.

(2) The repeal of the Marriage Act 1990 shall not affect the validity of any marriage solemnised under or in accordance with the provisions of that Ordinance.

SCHEDULE 1

(Section 5(2))

**MARRIAGE OFFICER
APPLICATION FOR APPOINTMENT**

Name	
Address	
Position(s) held	
Relevant qualifications	
Reasons for making this application	

Declaration:

I, (insert name) hereby apply for appointment as a marriage officer.

I have read and understood the following requirements and agree to be bound by them:

1. The Commissioner may only consider an application for appointment as a marriage officer after payment of any prescribed fee.
2. The Commissioner has the discretion to appoint, or not appoint any person applying for appointment as a marriage officer and may cancel any existing appointment. If the Commissioner refuses to appoint a person as a marriage officer or cancels an existing appointment, he shall not be required:
 - (a) to give any reason for such refusal or cancellation; or
 - (b) to refund in part, or whole, any fees that may have been paid.
3. A marriage officer must at all times recognise, observe and follow:
 - (a) the laws of the British Antarctic Territory, in particular the provisions set out in the Marriage Ordinance 2016 and the Registration Ordinance 2016; and
 - (b) any directions, conditions or restrictions as may be imposed by the Commissioner.
4. A marriage officer must at all times act without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Dated:

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Signed

SCHEDULE 2

(Section 8(7))



MARRIAGE LICENCE

WHEREAS, pursuant to section 8 of the Marriage Ordinance 2016 (the ‘Ordinance’), application has been made to me, *(full name of Registrar General)*, by *(name of applicant)* of *(address of applicant)* to marry *(full name of other intended party to marriage)* of *(address of other party to marriage)*;

AND WHEREAS, after due enquiry made by me or on my behalf, I am satisfied –

- (a) that the said *(full name of applicant)* and the said *(full name of other intended party to marriage)* are both over the age of sixteen years;
- (b) that the said *(full name of applicant)* and the said *(full name of other intended party to marriage)* have the capacity in accordance with section 4 of the Ordinance to marry;
- (c) that any necessary consent to the marriage of the said *(full name of applicant)* and *(full name of other intended party to marriage)* has been obtained; and
- (d) that the fee required by law to be paid for the Marriage Licence has been paid;

AND WHEREAS I, acting in my discretion, have decided that this Marriage Licence should be granted;

NOW THEREFORE, I *(name of Registrar General)*, Registrar General of the British Antarctic Territory IN EXERCISE of my powers under section 8 of the Ordinance hereby GRANT this Marriage Licence for *(full name of applicant and full name of other intended party to marriage)* to be married together, at any time and at any place in the British Antarctic Territory, or on board a ship within the territorial waters of the Territory but SUBJECT to any limitations placed upon the marriage officer

conducting the marriage pursuant to section 5(3) of the Ordinance and as hereinafter appearing.

Matters to which this Marriage Licence is subject

1. This Marriage Licence shall cease to be valid on the expiry of three months from the date of the grant thereof.
2. This Marriage Licence, in either paper or electronic format, shall be delivered up to the marriage officer solemnising the marriage.
3. This Marriage Licence shall not authorise any marriage if either of the parties to the marriage hereby licensed have after the date of this licence entered into a marriage with any person other than under authority of this licence.
4. This Marriage Licence does not give exemption from the requirements of sections 10 and 11 of the Ordinance, nor will it have any effect upon the provisions set out in section 4 of the Ordinance.
5. A marriage officer is not required by the issue of this Marriage Licence to solemnise the marriage.

GIVEN under my hand and seal of the British Antarctic Territory this [] day of [], 20[].

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(Signature)
Registrar General

SEAL