

DECEASED WIFE'S SISTER'S MARRIAGE ACT, 1907.

(7 Edw. 7, c. 47.)

(Imperial.)

AS AMENDED BY

Deceased Brother's Widow's Marriage Act, 1921 (11 & 12 Geo. 5, c. 24).

Supreme Court of Judicature (Consolidation) Act, 1925 (15 & 16 Geo. 5, c. 49).

Marriage (Prohibited Degrees of Relationship) Act, 1931 (21 & 22 Geo. 5, c. 31).

An Act to amend the Law relating to Marriage with a Deceased Wife's Sister.

[28th August, 1907.]

1. **Marriage with a deceased wife's sister, etc., not to be deemed void as a civil contract except in certain cases.**—No marriage heretofore or hereafter contracted between a man and his deceased wife's sister, [or between a man and his deceased brother's widow] [or between a man and any of the following persons; that is to say:—

- (1) his deceased wife's brother's daughter;
- (2) his deceased wife's sister's daughter;
- (3) his father's deceased brother's widow;
- (4) his mother's deceased brother's widow;
- (5) his deceased wife's father's sister;
- (6) his deceased wife's mother's sister;
- (7) his brother's deceased son's widow;
- (8) his sister's deceased son's widow]

within the realm or without, shall be deemed to have been or shall be void or voidable, as a civil contract, by reason only of such affinity: Provided always that no clergyman in holy orders of the Church of England shall be liable to any suit, penalty, or censure, whether civil or ecclesiastical, for anything done or omitted to be done by him in the performance of the duties of his office to which suit, penalty, or censure he would not have been liable if this Act had not been passed.

Provided also that when any minister of any church or chapel of the Church of England shall refuse to perform such marriage service between any persons who, but for such refusal, would be entitled to have the same service performed in such church or chapel, such minister may permit any other clergyman in holy orders in the Church of England, entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

Provided also that in case, before the passing of this Act, any such marriage shall have been annulled, or either party thereto (after the marriage and during the life of the other) shall have lawfully married another, it shall be deemed to have become and to be void upon and after the day upon which it was so annulled, or upon which either party thereto lawfully married another as aforesaid.

The words "or between" to "brother's widow" in square brackets were inserted by s. 1 (1) of the Deceased Brother's Widow's Marriage Act, 1921, s. 1 (4) of which provides that this Act as amended by that Act shall, so far as it relates to marriages between a man and his deceased brother's widow, have

effect as though it had been passed at the date of the passing of that Act (July 28, 1921). The words "or between a man and any" to "son's widow" in square brackets were inserted by s. 1 (1) of the Marriage (Prohibited Degrees of Relationship) Act, 1931, s. 1 (3) of which provides that this Act shall, so far as it relates to marriages authorised by that Act, have effect as though it had been passed at the date of the passing of that Act (July 31, 1931).

As to validity within Queensland of marriages between a man and his deceased wife's sister, see The Deceased Wife's Sister Marriage Act of 1877, *ante*. As to validity within Queensland of a marriage between a man and his deceased brother's wife, see The Deceased Husband's Brother Marriage Act of 1931, *ante*.

As to this Act, see Halsbury's Laws of England (2nd ed.), Vol. 16, p. 568.

With respect to prohibition of marriages between persons within certain degrees of consanguinity and affinity, see the Preliminary Note, *ante*.

2. Saving of existing rights and interests.—No right, title, estate or interest, whether in possession or expectancy, and whether vested or contingent at the time of the passing of this Act, existing in, to, or in respect of, any dignity, title of honour, or property, and no act or thing lawfully done or omitted before the passing of this Act shall be prejudicially affected nor shall any will be deemed to have been revoked by reason of any marriage heretofore contracted as aforesaid being made valid by this Act. And no claim by the Crown for duties leviable on or with reference to death, and before the passing of this Act due and payable, and no payment, commutation, composition, discharge, or settlement of account in respect of any duties leviable on or with reference to death before the passing of this Act duly made or given, shall be prejudicially affected by anything herein contained.

Nothing in this Act shall affect the devolution or distribution of the real or personal estate of any intestate, not being a party to the marriage, who at the time of the passing of this Act shall be, and shall until his death continue to be, a lunatic, so found by inquisition.

[3. *Rep. by the Supreme Court of Judicature (Consolidation) Act, 1925 (15 & 16 Geo. V. c. 49), s. 226.*]

4. Liability of clergyman to ecclesiastical censure.—Nothing in this Act shall relieve a clergyman in holy orders of the Church of England from any ecclesiastical censure, to which he would have been liable if this Act had not been passed, by reason of his having contracted or hereafter contracting a marriage [which would have been void or voidable but for the provisions of this Act as amended by any subsequent enactment].

The words in square brackets were substituted for other words (as amended by the Deceased Brother's Widow's Marriage Act, 1921, s. 1 (3), by the Marriage (Prohibited Degrees of Relationship) Act, 1931, s. 1 (2). As to operation of this Act, as amended, see note to s. 1, *ante*.

5. Interpretation.—In this Act the word "sister" shall include a sister of the half-blood [and the word "brother" shall include a brother of the half-blood].

The words in square brackets were added by the Deceased Brother's Widow's Marriage Act, 1921, s. 1 (4). As to operation of this Act, as amended, see note to s. 1, *ante*.

6. Short title.—This Act may be cited as the Deceased Wife's Sister's Marriage Act, 1907.