

XXVI. ACT ANENT RE-MARRIAGE OF DIVORCED PERSONS (AS AMENDED BY ACTS II 1985 AND II 2004)

Edinburgh, 26th May 1959, Session 12.

Notwithstanding anything contained in the Act of 27th August 1647 approving of the Confession of Faith or in any other enactment of the General Assembly, the General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows:-

1. A minister of the Church of Scotland may lawfully solemnise the marriage of a person whose former marriage has been dissolved by divorce and whose former spouse is still alive, provided that the said minister adhere to the requirements stated hereunder.

2. A minister shall not accede as a matter of routine to a request for the solemnisation of marriage of persons whose marriage has been dissolved by decree of divorce as aforesaid.

3. A minister invited to celebrate such a second marriage shall, in order to enable a decision to be made, take all reasonable steps to obtain relevant information which shall normally include the following:-

(a) adequate information concerning the life and character of the parties to be married; here the very greatest caution shall be exercised in cases where, for any reason, no pastoral relationship exists between the minister and either or both of the parties concerned;

(b) the grounds and circumstances of the divorce case;

(c) facts bearing upon the future well-being of any children concerned;

(d) whether any other minister of religion has declined to solemnise the proposed marriage;

(e) the denomination to which the parties belong; special care shall be taken in cases where one or both parties belong to a denomination whose discipline in this matter may differ from that of the Church of Scotland.

4. A minister shall also consider whether there is danger of scandal arising if the re-marriage is solemnised; at the same time, and before refusing to solemnise the re-marriage, the minister shall take into careful consideration the moral and spiritual effect of a refusal on the parties seeking such a marriage.

5. As the determinative factor, a minister shall do all he or she can to be assured that by word and deed there has been sincere repentance where guilt has existed in the past on the part of any divorced person seeking re-marriage. He or she shall also give the most careful instruction, where this is needed, in the nature and requirements of a Christian marriage.

6. A minister shall not be required to solemnise a re-marriage against his or her conscience.

7. Every Presbytery shall appoint certain individuals (who need not be members of the Presbytery concerned) with one of whom ministers in doubt as to the correct course of action may consult if they so desire; in such cases the final decision must rest with the minister who has been asked to officiate.

8. The admission to Communion of persons who have contracted marriage after divorce, and any other matters affecting pastoral care, shall remain the responsibility of the minister and Kirk Session involved.

9. The Acts of Assembly of 1566 and 1576 anent the re-marriage of divorced persons and all other enactments of like tenor and effect are hereby repealed.

10. For the purposes of this Act, the term 'minister' shall be deemed to include 'deacon'.