

BECOMING A RECOGNIZED RELIGIOUS DENOMINATION IN ONTARIO

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A. INTRODUCTION

Many church congregations are governed by an umbrella organization commonly known as a religious denomination. A denomination normally provides the structure by which new churches of that particular faith are founded, through church planting, administrative support, financial support and, most importantly, interpretation of the religious doctrine adhered to by the various member congregations. Most denominations wish to have their clergy solemnize marriages. There are approximately 100 standard classifications of religious denominations recognized in Canada.¹

This *Church Law Bulletin* ("Bulletin") summarizes the procedure in Ontario for religious denominations to apply for the privilege to have their ordained ministers solemnize marriage. In addition, this Bulletin discusses the implications of receiving status as a recognized denomination in Ontario and, in particular, the obligations that a recognized denomination must comply with.

¹ Statistics Canada, "Religious Denomination: Detailed Classification" (2003) <http://www.statcan.gc.ca/english/concepts/definitions/religion01.htm>.

B. THE SOLEMNIZATION OF MARRIAGE IN ONTARIO

Under the *Constitution Act*, 1867, the federal government has jurisdiction over marriage and divorce, more specifically which persons can or cannot marry each other.² At the same time, the *Constitution Act*, 1867, also authorizes the provinces to regulate the solemnization of marriages.³ This includes determining which individuals may perform marriage ceremonies. In Ontario, the *Marriage Act*⁴ is the statutory framework which governs the procedural aspects of the solemnization of marriage, which is functionally administered by the Marriage Office, a department of the Office of the Registrar General, in the Ministry of Consumer and Business Services. A national denomination seeking marriage solemnization privileges in a number of provinces would have to consult each provincial and territorial authority in order to obtain recognition in that province. The appropriate provincial and territorial government contacts across Canada are set out in Schedule “A” to this Bulletin for ease of reference.

C. PROCEDURE FOR OBTAINING RECOGNITION AS A NEW DENOMINATION IN ONTARIO

Section 20 of the *Marriage Act* provides that no one may solemnize a marriage unless registered to do so under section 20 or authorized by or under section 24 of the Act, which authorizes a judge, a justice of the peace or any other person of a class designated by the *Marriage Act* regulations to solemnize marriages. The Marriage Office has established a “Memorandum of Requirements for Recognizing a New Denomination” (the “Memorandum”), which includes the checklist of the required documentation that must be submitted to the Marriage Office by a denomination seeking recognition in Ontario set out below:

1. Appointment and Dismissal of Clergy: Please supply us with the by-laws or rules of your denomination, which clearly sets out how your clergy members are appointed and dismissed.
2. A copy of your denomination’s rites and usages respecting solemnization of marriage. An actual copy of your marriage ceremony is required.⁵

² Section 91(26).

³ Section 92(12).

⁴ R.S.O. 1990, c. M.3.

⁵ *Ibid.* at section 24 (3).

3. A copy of the form of worship, namely actions or practices of displaying reverence or veneration paid to a being or power regarded as supernatural or divine displayed by appropriate acts, rites and ceremonies.
4. A registration package for each clergy is required to include:
 - i) a completed application;
 - ii) a copy of your ordination or proof of appointment;
 - iii) a letter of authorization from the governing official of your denomination permitting you to solemnize marriages according to that denomination's rites and usages.
5. A letter signed by three board members stating who will be the governing official for the denomination. The governing official will be responsible for keeping the records of all clergy registered under the denomination and report to the Registrar General any changes in status or addresses of clergy registered under their denomination.
6. A certified copy of the incorporation papers for your denomination is required. This will reflect the date and place of incorporation or founding of the religious body. A copy of your registration as a charity with Revenue Canada is also required.
7. A statement is required which reflects information about the congregation you will be serving. Please show the name and location of the church, and the number of members and adherents showing the extent and continuous growth. Include evidence that would indicate the length of time the denomination has been functioning inside or outside of Ontario.
8. A statement showing the organizational structure of your denomination explaining the procedure by which your governing official would be appointed or relieved of jurisdictional authority.
9. Signatures and addresses of at least 25 members of the denomination, excluding clergy and their families, petitioning us to register the denomination.

The Marriage Office requires original signatures for the application forms for each clergy member, as well as for the letter of authorization from the governing official. In Ontario, there are no fees currently associated with the filing of the application.

D. IMPLICATIONS FOR RELIGIOUS DENOMINATIONS IN ONTARIO

1. Required Documentation

The Memorandum is revised periodically. Denominations that intend to apply for recognition may find that other denominations were registered with either less or more documentation than is presently

requested in the Memorandum. This discrepancy, however, does not affect the Marriage Office's current requirements for new applicants, or the necessity to comply with the same.

2. Processing Period

The Marriage Office has recently advised that the current processing time for new applications is two (2) years. As such, new applicants wishing to have its clergy perform marriages must take this time period into consideration when planning future activities of the denomination.

Religious denominations must ensure that the documents included in their application are complete and conform to the stipulated requirements in the Memorandum. The Marriage Office can also question the content of the documents enclosed in a denomination's application, thereby prolonging the processing period.

3. Proof of Ordination or Appointment

Many religious denominations have associated and/or approved seminaries and theological institutes which provide training for the licensure and/or ordination of its clergy. While licensure of its clergy may be sufficient within the denomination to permit its clergy members to carry out pastoral duties, the Marriage Office does require a copy of the clergy member's ordination certificate or proof of appointment. As such, licensure is not sufficient for Marriage Office purposes.

4. Governing Official

The appointment of the denomination's governing official is extremely important. The governing official must ensure that all records for the denomination itself and all clergy members registered to solemnize marriages under that particular denomination are current,⁶ as notices of change, including clergy registrations and cancellations, are a matter of public record and are, therefore, published in *The Ontario Gazette*.⁷ This task may be particularly daunting if the denomination has many registered clergy members. As such, recognized denominations should have a system in place to ensure that any

⁶ *Ibid.* at section 22(2).

⁷ *Ibid.* at section 23.

changes, in particular, registered clergy members who have died or are no longer associated with the denomination, are reported to the Marriage Office.

5. Protection of Clergy Members

Upon registration of the denomination, each clergy member authorized by the Minister of Consumer and Business Services at the time of the registration of the denomination, as well as future clergy members who apply separately, will receive a certificate of registration in the prescribed form.⁸ In light of the *Spousal Relationships Statute Law Amendment Act, 2005*⁹ which received Royal Assent on March 9, 2005, the *Marriage Act* has been recently amended to include provisions exempting registered clergy members from solemnizing marriages or permitting marriages to be held in a sacred place that would be contrary to the clergy members' religious beliefs or the doctrines, rites, usages or customs of the religious body to which the person belongs.¹⁰ For further information regarding the implications of the recent proposed same-sex marriage legislation for clergy registered in Ontario, see *Charity Law Bulletin* No. 8, entitled "Update Regarding Same-Sex Marriage Legislation (Bill C-38 and Bill 171)."¹¹

6. Registration across Canada

While some religious denominations operate solely in specific provinces and territories in Canada, there are many denominations which operate nationally and, as such, will need to pursue recognition by the appropriate bodies within each province. This could result in a situation whereby a denomination's clergy have the authority to solemnize marriage in one jurisdiction, but not in another, should the appropriate authorities in each jurisdiction come to contrary decisions.

⁸ *Ibid.* at section 21(2).

⁹ S.O. 2005, c.5.

¹⁰ *Supra* note 4 at section 20 (6) and (7).

¹¹ Terrance S. Carter and Mervyn F. White, "Update Regarding Same-Sex Marriage Legislation (Bill C-38 and Bill 171)" (2005) *Charity Law Bulletin* No. 8, <http://www.carters.ca/pub/bulletin/church/2005/chchl08.pdf>.

E. CONCLUDING COMMENTS

Due to the fact that the Marriage Office retains the discretion to recognize a religious denomination and permit its clergy to perform marriages, it is entirely possible that a denomination will be unable to perform marriages due to a decision of the Marriage Office to refuse to accept the denomination's application. Although there is a quasi-appeal mechanism by which the Marriage Office will point out any deficiencies or inconsistencies in an application, and allow the denomination the opportunity to rectify such issues, the final decision rests with the Marriage Office.

Further, the *Marriage Act* reserves the right of the Minister of Consumer and Business Services to cancel the registration of any person authorized to solemnize marriages if it appears that this person no longer possesses the stipulated qualifications to do so.¹² As the privilege bestowed upon clergy that are authorized to solemnize marriage in Ontario can be revoked, recognized religious denominations should ensure that any changes to the denomination's file with the Marriage Office are reported in order to prevent confusion or possible de-registration due to insufficient or incorrect information on file.

Finally, new applicants must also accept that its member churches may not be able to solemnize marriages for members for a significant period of time while the application is processed, and that such services will have to be obtained through authorized clergy from other denominations or through civil marriages performed by a judge, justice of the peace or any other person designated by the *Marriage Act* regulations.

¹² *Supra* note 4 at section 22 (1).

SCHEDULE "A"

PROVINCIAL / TERRITORIAL AUTHORITIES FOR RECOGNITION OF NEW DENOMINATIONS

ALBERTA

Registration Services
Alberta Registries
10365-97 Street, 3rd Floor
Edmonton, Alberta T5K 2P2
Tel: (780) 427-7013
Fax: (780) 423-2567

BRITISH COLUMBIA

Division of Vital Statistics
Ministry of Health
818 Fort Street
P.O. Box 967
Victoria, British Columbia V8W 9P3
Tel: (250) 952-2681
Fax: (250) 952-2527

MANITOBA

Vital Statistics Agency
Consumer and Corporate Affairs
254 Portage Avenue, Main Floor
Winnipeg, Manitoba R3C 0B6
Tel: (204) 945-3701
Fax: (204) 948-3128

NEW BRUNSWICK

Marriage Act Unit
Vital Statistics Office
Department of Health and Wellness
Suite 203, 2nd Floor
435 King Street
Fredericton, New Brunswick E3B 1E5
Tel: (506) 453-7411
Fax: (506) 444-4139

NEWFOUNDLAND AND LABRADOR

Vital Statistics Division
Department Of Government Services
5 Mews Place
P.O. Box 8700
St. John's, Newfoundland A1B 4J6
Tel: (709) 729-3308
Fax: (709) 729-0946

NORTHWEST TERRITORIES

Department of Health and Social Services
Government of Northwest Territories
Bag #9
Inuvik, Northwest Territories X0E 0T0
Tel: (867) 777-7420
Fax: (867) 777-3197

NOVA SCOTIA

Registrar General
Division of Vital Statistics
1690 Hollis Street
P.O. Box 157
Halifax, Nova Scotia B3J 2M9
Tel: (902) 424-4381
Fax: (902) 424-0678

NUNAVUT

Nunavut Health & Social Services
Bag #3
Rankin Inlet, Nunavut X0C 0G0
Tel: (867) 645-8001
Fax: (867) 645-8092

ONTARIO

Marriage Office
Ministry of Consumer and Business Services
Registration Division
Office of the Registrar General
P.O. Box 4600
189 Red River Road
Thunder Bay, Ontario P7B 6L8
Tel: (416) 325-8305
Fax: (807) 343-7284

PRINCE EDWARD ISLAND

Vital Statistics
Department of Health and Social Services
35 Douses Road
P.O. Box 3000
Montague, Prince Edward Island C0A 1R0
Tel: (902) 838-0880
Fax: (902) 838-0883

QUEBEC

Ministère de la justice
Direction de l'état civil
Service à la Clientèle
205, rue Montmagny
Québec, Québec G1N 4T2
Tel: (418) 643-3900
Fax: (418) 646-3255

SASKATCHEWAN

Vital Statistics
1942 Hamilton Street
Regina, Saskatchewan S4P 3V7
Tel: (306) 787-3092
Fax: (306) 787-2288

YUKON

Department of Health and Human Resources
Government of Yukon
P.O. Box 2703
Whitehorse, Yukon Y1A 2C6
Tel: (867) 667-5207
Fax: (867) 393-6486