

**320/1919 Coll. in wording applicable as of 13 June 1919 to 31 December 1949**

Provisions of (1) to (12) of this Act shall become effective 1 month after announcement; other provisions as to the day of announcement.

**320  
Act  
of 22 May 1919  
amending the provisions of civil law on the ceremonial appurtenances of a  
marriage contract,  
on separation, and on obstacles to marriage**

Pursuant to the decision of the National Assembly, it is hereby ordered as follows:

**§ 1**

For the marriage to be valid, the banns and solemn consent to marriage, either civil or ecclesiastical, are required.

[tags: conditions for validity of marriage]

**§ 2**

Banns, representing notice on future marriage, shall also include the name and surname of both spouses, their birth places, statuses, and residences, as well as a reminder that anyone who is aware of any obstacle to the marriage, shall report it.

[tags: banns, constituents of banns]

**§ 3**

Civil banns is to be done by political district office and in towns with own statuses the municipal office to which political administration is assigned, in Slovakia the registrar.

Locally competent is the office in whose district the spouses have their regular residence.

If each of them has his or her regular residence in the district of another office, the banns shall be carried out by both authorities.

Banns are to be posted publicly on the official notice board and, on request, also on the official notice board in the municipality in which the spouses have their regular residence.

If regular official days are held at the district political office, the marriage must also be announced orally during 1 or more official days.

Consent to marriage can be declared only when the banns have been hung on the official notice boards of the relevant political and municipal authorities for at least 10 days.

[tags: banns, banns proceedings]

#### § 4

If one of the spouses does not live in his/her residence for the whole 6 weeks yet, the banns shall be postponed to the time when such 6 weeks period elapses, or the marriage shall also be announced in the municipality where the spouse last lived for more than 6 weeks.

[tags: banns, banns proceedings]

#### § 5

For the banns and consequently the marriage to be valid, it is sufficient if the banns have been hung on the official notice boards of the offices referred to in (3) for at least 5 days.

[tags: banns, banns proceedings, validity of marriage]

#### § 6

If the spouses do not conclude the marriage within 6 months from the last day of the banns, the banns must be repeated.

[tags: banns, repeat banns]

#### § 7

The spouses can ask for a shortening of the banns period, or for its complete waiver. The time period may be shortened based on serious reasons. The banns can be waived only if the matter is urgent, or if spouses are persons who are already considered spouses. In both above mentioned cases, however, the parties shall conform, that they are not aware of any obstacle to intended marriage. Lack of such declarations shall not be an obstacle to effectivity of such waiver.

The decision on shortening of the term for the banns pertains to the district (municipal) political office, decision on waiver of the banns pertains to the second instance political office, and if there is an immediate danger of death, to the district (municipal) political office. In Slovakia such rights pertain to district governor.

The banns are not required, if an obstacle to conclusion of marriage has been waived, however, the consent to marriage is to be declared again. If it is proceeded pursuant to this regulations, the marriage shall be considered existing as validly concluded as of the beginning.

[tags: banns, banns proceedings, shortening or waiver of banns period]

## § 8

Consent to marriage is to be declared in front of the head of the district (municipal) political office or his/her deputy (in Slovakia in front of the registrar) in presence of 2 witnesses and sworn record-keeper. Competent is the office which announced the marriage. The consent may only be declared at locally non-competent office only based on authorization of locally competent office.

[tags: consent to marriage, form of the consent to marriage]

## § 9

The consent to marriage may be declared by a representative. This requires consent of the second instance political office (or the district governor). Person, with whom the marriage is to be concluded, shall be nominated in details in the power of attorney. If the power of attorney does not meet these appurtenances, the marriage is invalid. If the principal recalls the power of attorney before the conclusion of the marriage, the marriage is invalid, however the principal shall compensate all damage caused by such recall.

[tags: consent to marriage, consent by proxy]

## § 10

A record is to be made on conclusion of marriage, to be signed by spouses, both witnesses, and both officials. The validity of marriage is not conditioned by the record or its form.

[tags: record on conclusion of marriage]

## § 11

District (municipal) political offices (registrar) shall keep a book of banns and book of marriages on banns and marriages and shall issue official certificate from them on request.

[tags: book of banns, book of marriages, certificate of marriage]

## § 12

Parties already married in a civil procedure may freely decide, if they also want to submit to religious ceremonies. If the spouses only wish for a religious marriage, the banns and wedding are held with the relevant spiritual administrator. In the case of a mixed religion of spouses, the banns take place at both spiritual administrators, and wedding shall be held at one of them or at both at the will of the spouses.

Religious banns are held before the faithful at a service on three consecrated days. At least 1 repetition of banns is required for the marriage to be valid.

Also for the religious banns and wedding (2), (6), (7), (9), of this Act apply, and unless stipulated otherwise on (12), provisions of (3)(1)) and (3(2)), (4), (8), (10), and (11) shall apply accordingly.

[tags: ecclesiastical marriage, religious banns]

## § 13

An action for separation of marriage may be filed:

- a) if the other spouse commits adultery;
- b) if the other spouse has been sentenced to imprisonment for at least 3 years, or for a shorter period but for a crime arising out of motives, or committed in circumstances indicative of depravity;
- c) if the other spouse has left his/her spouse in bad faith and does not return based on court's summons within 6 months. If his/her whereabouts are unknown, the court summon shall be made in public;
- d) if the other spouse has plotted against the life or health of the spouse;
- e) if the other spouse treated him/her badly several times, if he/she hurt him/her seriously, or if he/she insulted his/her honor;
- f) if the other spouse leads a debauched life;
- g) for a permanent or intermittent mental illness lasting 3 years; for severe congenital or acquired mental degeneration, including severe hysteria, drinking, or habitual overuse of nerve poisons, lasting 2 years; for an epilepsy lasting at least 1 year with at least 6 seizures per year or with an associated mental disorder;
- h) if such a profound damage to marriage occurred that the spouses cannot be justly required to remain in the conjugal relationship. Separation cannot be declared based on the action of the spouse, who is mainly guilty of the breakup;

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i) for insuperable aversion. An action may only be granted, if the other spouse joins, even later, the application for separation. In such a case it is not necessary to declare the separation immediately, but at first, even repeatedly, the divorce from table and bed can be declared.

In cases of dispute regarding the separation it shall be proceeded pursuant to regulations applicable to examination and judging of marriage invalidity.

[tags: separation of marriage, premises of separation of marriage]

## § 14

a) The right to file an action lapses in cases pursuant to (13(a, d)) within 1 year from the day when the spouse became aware of the adulterous or willful act of the other spouse; in the case referred to in (13(b)) within 1 year from the day when the spouse learned of conviction of the other spouse;

b) the right to file an action lapses in cases pursuant to (13(a, d)), if 5 years elapsed from the committed act;

c) the right to file an action lapses by forgiveness. However, if the guilty spouse repeats the offense, or if the spouse who granted forgiveness has learned of other facts occurred before the granting forgiveness and justifying the application for separation, the spouse may also rely on the facts that were already forgiven to justify the separation.

In cases referred to in (13(e)) only one new hearing is sufficient;

d) the time limits referred to in (14(a, b)) shall be suspended by an application or by an action for divorce, provided that the proceedings are duly instituted. If the application or action is validly rejected, the time limits in the case shall be considered in the way as if they were never suspended.

[tags: separation of marriage, limitation of action of separation of marriage]

## § 15

If the marriage has been divorced by court, each spouse may, if he/she does not wish to sue for separation for another reason stated in (13), to apply for separation for insuperable aversion. Such an application can only be filed after elapse of at least 1 year from the divorce of marriage declared by court and if the spouses have not re-established the marriage; in the case of a marriage divorced before publishing of this Act, the application on separation may be filed after elapse of at least 6 months from the divorce of marriage declared by court and if the spouses have not re-established the marriage.

[tags: separation of marriage, separation due to insuperable aversion, divorce]

## § 16

a) The court will consider the case according to the principles of undisputed proceedings. The court shall also advise the spouses on all consequences of separation. If both spouses agree with the separation and the court is convinced, based on consideration, that insuperable aversion actually exists, it shall declare separation by a decision.

In the case of marriage divorced before effectivity of this Act, it is sufficient, if the court establishes, that it is not a reckless act. If 3 years have passed since the divorce by court, the consent of the other spouse is not necessary for the separation, neither the insuperable aversion, nor the prudence of the act need to be ascertained.

b) Consent to an application for separation is presumed if the spouse against whom the application for separation was filed does not appear in the court; this consequence should be pointed out in the summons, which is to be delivered to this spouse into his/her own hands together with the copy of the application. The right of the court to use coercive measures according to (87) of Act on org. remains thereby untouched.

c) In the case of marriage not divorced before effectivity of this Act and if the other spouse does not agree with separation, or if he/she states reasons other than insuperable aversion, the court shall advise the applicant on provisions of the law.

[tags: separation of marriage – proceedings, divorce]

## § 17

If the court legally declares divorce pursuant to (107) – (109) of the Civil Code due to any reason established in (13) herein, each spouse may, regardless of the provision of (15), apply for separation of the marriage based on dispute on divorce already held. If the court, based on research made which is to be governed by principles of undisputed proceedings, reaches the conclusion that facts already discovered within dispute on divorce would be sufficient for declaring the sentence on separation already at that time, if it were included in the action, it shall declare the separation of marriage adopting the sentence on guilt from the judgment issued in the dispute on the divorce of marriage. The separation cannot be declared, if the status established in (13(g)) passed.

[tags: separation of marriage, divorce]

## § 18

In disputes concerning the separation of marriage due to insuperable aversion, a previous divorce pursuant to (13(i)) of this Act shall be waived, if the spouses have already been divorced by court and if 1 year has elapsed since then and if the spouses have not re-established the marriage; if 3 years have elapsed since the divorce by

court, the alleged insuperable aversion is considered proven, unless the results of the oral hearing contradict it.

[tags: separation of marriage, separation due to insuperable aversion, divorce]

## § 19

Agreement of parties and decision of a court pursuant to (106) and (108) of the Civil Code remain valid even after declaration of the separation of the marriage, unless the parties agree otherwise. Based on important reasons, either of the separated spouses may apply for a new property settlement pursuant to law.

[tags: property settlement]

## § 20

1. The court competent to decide on applications for separation within the meaning of (15) and (17) is the first instance collegiate court.
2. If such an application is preceded by a dispute on divorce, local competent court is the first instance collegiate court which decided the dispute on divorce.
3. In other cases the local competent court is the collegiate court of the district of the general court of the spouse against whom the application for separation is aimed. If such spouse has no general court inland, the competent court is the collegiate court of the district of the general court of the applicant.

[tags: jurisdiction]

## § 21

In proceedings on applications for separation within the meaning of (15) and (17), the court may, if the court deems it absolutely necessary, also order an oral hearing, which shall not be public; this oral hearing may be held before the entire Chamber, if the court deems it absolutely necessary. Otherwise, the provision of (38) of the Act on Court Organization [shall apply]. If one of the spouses has no legal capacity, his/her legal representative shall be invited to the hearing.

[tags: separation of marriage – proceedings, oral hearing]

## § 22

The spouses, whose marriage was separated by decision of a court, may only conclude a new marriage, when the decision on separation comes into legal force.

[tags: separation of marriage, repeat marriage]

## § 23

To apply for separation pursuant to (13) herein is also possible, if the reason representing a reason for separation pursuant to this Act occurred during the applicability of previous law.

[tags: application of this act]

## § 24

The provision of this Act shall also apply, if the divorce by court preceding the application for separation was legally declared before 28 October 1918 outside the territory of this State in kingdoms and countries represented in former Austrian Imperial Council. In such cases the courts referred to in (20(3)) shall decide on the application for separation.

[tags: application of this act]

## § 25

1. The provisions of (63), (64), (66), (67), (94), (111), (115), (116), (119), (125), (133), (134), (135), (136) of the Civil Code and High Decree of 26 August 1814, No. 1099 Coll. of Judicial Laws (JGS), and of 17 July 1835, Art. 61 Coll. of Judicial Laws (JGS), as well as (25) of Hungarian Art. XXXI. of the 1894, are hereby abolished.
2. Ineligibility for inheritance established as a consequence of adultery in (543) of the Civil Code shall cease to exist, if those who have admitted to or were proven guilty of adultery by a court get married.
3. Status of brother/sister-in-law represents an obstacle to marriage to the extent that one spouse cannot marry a relative of the other spouse in the direct line or a full-born or half-born sibling.

[tags: repeal of certain provisions]

## § 26

In the case of waivable obstacle, this may be waived at the request of the parties for important reasons by the second instance political office (district governor).

[tags: waiver of marriage obstacle]



## § 27

Conciliation attempts prescribed for a divorce ((104), (107) of the Civil Code) are held exclusively in court and shall be governed by the provisions of the Act of 31 December 1868 RGBL. No. 3 of the 1869.

[tags: conciliation]

## § 28

It is obligatory to examine the invalidity of a marriage ex officio if there are obstacles to it pursuant to (56), (62), (65), (68) of the Civil Code and to (8) ((12(3))) of this Act. In all other cases, it is appropriate to await the requests of those whose rights were breached by the conclusion of an invalid marriage.

[tags: invalidity of marriage]

## § 29

In matrimonial matters, an appeal against the decision of the district (municipal) political office may be filed with the second instance political office. An appeal against the decision of the second instance political office may be filed with the Ministry of Interior. In Slovakia, an appeal against the decision of the registrar may be filed with the district governor, appeal against the decision of the district governor may be filed with the Ministry of Interior. There is no time limit established for the appeals and an appeal to the third instance may be filed also in the case of congruous decision of both lower instances.

[tags: an appeal, jurisdiction]

## § 30

Provisions of (1–12), (25) regarding abolishment of (25) of the Hungarian Art. XXXI. of the 1894, as well as of the (29) of this Act apply also for Slovakia.

[tags: application of this act, repeal of certain provisions]

## § 31

Provisions of (1) – (12) of this Act shall become effective 1 month after announcement; other provisions as to the day of announcement.  
All existing regulations on matters regulated by this Act are hereby abolished.

[tags: vacatio legis, general repeal of provisions regarding matters regulated by this act]

**§ 32**

The enforcement of this Act is entrusted to the members of the Government for Justice and Interior.

[tags: implementation of this act]

Mr. T. G. Masaryk, b. h.,  
Mr. Švehla, b. h.,  
on behalf of the Prime Minister and as the Minister of Interior  
Mr. Dr. Soukup, b. h.