

THE HINDU MARRIAGE ACT

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SCHEDULE

THE HINDU MARRIAGE ACT

Law
52 of 1957.

[19th December, 1957.]

1. This Act may be cited as the Hindu Marriage Act. Short title.
2. In this Act—
 “Civil Registrar” and “Registrar-General” mean respectively Civil Registrar of Marriages and the Registrar-General of Marriages under the Marriage Act;
 “marriage officer” means a person licensed as a Hindu marriage officer in accordance with section 3. Interpretation.
- 3.—(1) It shall be lawful for the Minister or any person duly authorized by him, to grant licences to such persons being priests of the Hindu religion, as the Minister or such authorized person may in his discretion think fit, to be marriage officers, and without assigning any reason for so doing cancel any such licence. Appointment of Hindu marriage officers.
- (2) A licence under this section shall be in the Form A of Part III of the Schedule. Schedule.
- (3) The grant or the cancellation of any such licence shall be notified in the *Gazette* and shall have effect from the date of such publication.
- (4) Whenever a licence has been cancelled, the holder thereof shall return it to the Registrar-General forthwith after notice of such cancellation has been forwarded to such holder by letter signed by or on behalf of the Minister and addressed to his usual or last known place of abode or business. If he fails to do so he shall be liable on summary conviction before a Resident Magistrate

to a fine not exceeding twenty dollars or imprisonment for a term not exceeding two months.

Marriage officers may act in any part of the Island.

4. It shall be lawful for any person to whom a licence has been granted under section 3 to act as a marriage officer in any parish of the Island.

Civil Registrars to exhibit list of marriage officers.

5. Every Civil Registrar shall keep affixed in a conspicuous place in his office a list containing the names and addresses of all marriage officers licensed under this Act.

Application for licence as marriage officer.

6.—(1) Any Hindu priest who desires to be licensed as a marriage officer shall make application in writing to the Registrar-General. Such application shall state the dwelling place of the applicant, and shall be accompanied by a certificate to the effect that the applicant is a fit and proper person to be licensed as a marriage officer from the President and Secretary of the East Indian Progressive Society or any Hindu organization which may be recognized by the Minister as hereinafter provided.

(2) If an application is received from any organization for recognition as provided in subsection (1), notice of such application shall be advertised in the *Gazette*, and anyone who wishes to object to such recognition being given shall do so in writing to the Registrar-General within one month of the publication of such notice.

(3) If the Minister thereafter accords recognition to any such organization, notice of such recognition shall be published in the *Gazette*.

Requisites of valid marriage.

7. The requisites of a valid Hindu marriage under this Act are—

(a) that each of the parties shall belong to and profess the Hindu faith or religion;

- (b) that both parties shall, as regards age, mental capacity and otherwise, be capable of contracting marriage;
- (c) that the parties shall not be within the prohibited degrees of consanguinity and affinity according to the Hindu law relating to marriage;
- (d) that the marriage shall be solemnized by a marriage officer in accordance with the rites of the Hindu religion and the provisions of this Act;
- (e) that the parties, understanding the nature of the contract, shall freely consent to marrying one another in the presence of the marriage officer who solemnizes the marriage, and shall sign or mark a certificate drawn up by the said officer in accordance with the provisions of section 10;
- (f) that the marriage shall be registered in accordance with the provisions of this Act:

Provided that no marriage shall be contracted under this Act (or if so contracted and registered the same shall be null and void *ab initio*) where it is shown that either of the parties has, or had at the time of such contracting and registration, a wife or husband alive, or where either party is directly descended from the other, or where the female is the sister of the male, either by the full or the half blood, or where the male is the brother of the female either by the full or the half blood.

8.—(1) The age at which a person, being a member of the Hindu religion, is capable of contracting marriage shall be sixteen years.

Age limit
and consent
of parents.

(2) Without prejudice to the provisions of subsection (1), a marriage shall not be solemnized by a marriage officer if the intended husband (not being a widower) is under

twenty-one years of age, or the intended wife (not being a widow) is under eighteen years of age unless the consent to the marriage of the party who is under age by virtue of the provisions of this section has been given in accordance with the following provisions of this section, and such consent is hereby required for the marriage of such party under age.

(3) The required consent may be given by the father of the party under age, and if the father is dead by the guardian or guardians appointed or one of them, and in case where there is no such guardian then by the mother of such party so under age, and if the mother is dead then by such other person as may be appointed for the purpose by the Minister.

(4) In case the father, mother or a guardian whose consent to a marriage is required under the provisions of subsection (3) is absent from the Island or is unable or refuses to give such consent or is not of sound mind, it shall be lawful for the party in whose case consent is required to apply to the Minister to appoint a person, being a member of the Hindu community, to investigate the circumstances of the intended marriage, and if after such investigation it appears to the person so appointed that there are no reasonable objections to such intended marriage such person shall so formally declare in writing and such declaration shall, for the purposes of this Act, be deemed equivalent to such consent as aforesaid.

(5) A consent shall, when not given in the presence of a marriage officer, be signified in writing under the hand of the person giving such consent, and the marriage officer by whom the marriage is solemnized shall record on the certificate drawn up by him in accordance with the provisions of section 10, the fact that the required consent has been given, the name of the person by whom such

consent has been given and whether such consent has been given in his presence or in writing.

9.—(1) It shall be lawful for any marriage officer without previous notice of the intended marriage being given and without any formality required by the Marriage Act to solemnize a marriage between persons belonging to and professing the Hindu faith or religion, and such marriage shall, subject to the provisions of this Act, be as valid as if it had been solemnized in conformity with the provisions of the said Marriage Act. Marriage by marriage officer.

(2) Subject to the provisions of section 11, if any persons intermarry otherwise than in accordance with the provisions of this Act, or if the parties to any marriage are within the prohibited degrees of consanguinity or affinity according to the Hindu law relating to marriage, the marriage of such persons shall not be registered under the provisions of this Act.

10.—(1) Immediately after a Hindu marriage has been solemnized by a marriage officer, he shall enter in a book to be supplied by the Registrar-General and kept by the marriage officer for that purpose (hereinafter referred to as the "Hindu Marriage Certificate Book") a certificate of the said marriage in the Form B of Part III of the Schedule. Marriage certificate.
Such certificate shall be signed by the parties to the marriage, by two credible witnesses of the said marriage, and by the marriage officer who shall also enter up in the counterfoil the prescribed particulars and sign the same: Schedule.

Provided that if any of the parties of the marriage cannot sign, he shall affix his mark in the presence of the marriage officer and of the two witnesses.

(2) Every marriage officer shall, within seven days of a Hindu marriage being solemnized by him, transmit to the Registrar-General the certificate referred to in subsection (1).

(3) Upon receipt of the said certificate, the Registrar-General, if it appears to him that the requisites of a valid Hindu marriage have been complied with and that the consent of every person required by this Act to consent to such marriage has been obtained, shall counter-sign the certificate so forwarded and cause the same to be registered.

(4) (a) Whenever it is alleged that a marriage officer has duly solemnized a marriage under this Act but has failed to comply with any of the provisions of subsections (1) and (2), any party to such alleged marriage may apply by summons to a Judge in Chambers for an order directing the Registrar-General to cause such marriage to be registered.

(b) Such summons shall be served upon the Registrar-General, upon the other party to the alleged marriage (when not an applicant) and upon the marriage officer (if alive and in the Island). Upon the hearing of such summons the Judge may summon such person as is likely in his opinion to give material evidence in the matter and shall hear and determine the matter in a summary manner. If the Judge is satisfied from the evidence that the alleged marriage was duly solemnized, that the requisites of a valid Hindu marriage have been complied with, and that the consent of every such person required by this Act has been obtained, he shall make the order prayed for and award such costs as he may deem fit.

Schedule.

(c) Any such order shall set out the essential particulars contained in the Form B of Part III of the Schedule (including the names of the witnesses) and any other matter which the Judge may deem necessary to give effect to the provisions of subsections (1) and (2); and such order shall be dealt with by the Registrar-General as if it were a certificate transmitted to him for registration by

a marriage officer in accordance with the provisions of subsection (3).

(5) Every marriage officer who—

- (a) fails to comply with the provisions of subsection (1); or
- (b) without reasonable cause or excuse, fails to transmit to the Registrar-General any certificate in accordance with the provisions of this section; or
- (c) solemnizes a Hindu marriage without proof that the persons whose consent is required by this Act have given such consent,

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty dollars.

11.—(1) Notwithstanding anything to the contrary, any Hindu marriage which was entered into prior to the 19th December, 1957, between Hindus domiciled in the Island on the date of such marriage and which marriage is still subsisting and is valid according to the Hindu law relating to marriage may be registered under this Act in accordance with the provisions hereinafter contained.

Registra-
tion of
marriages
entered into
prior to
commence-
ment of the
Act.

(2) The parties to such prior marriage shall attend before a marriage officer and shall make and sign a declaration in the Form C of Part III of the Schedule. Such declaration shall be signed in the presence of the marriage officer by two credible witnesses who shall identify the parties:

Schedule.

Provided that if any of the parties to such prior marriage cannot sign his name he shall affix his mark in the presence of the two witnesses.

(3) The marriage officer shall then, in proper cases, immediately fill in the date and sign the certificate on the said Form C and shall transmit it to the Registrar-General within seven days.

(4) The fee prescribed for solemnizing a marriage shall apply in respect of the taking of the declaration of a marriage entered into prior to the 19th December, 1957.

(5) If it appears to the Registrar-General that the requisites of a valid Hindu marriage were complied with at the date it was contracted and that such prior marriage is still subsisting he shall cause the declaration aforesaid to be registered.

Filing of certificate and registration of marriage by the Registrar-General. Schedule.

12.—(1) The Registrar-General shall file in his office all certificates and declarations of Hindu marriages which shall be transmitted to him in accordance with the provisions of this Act, and shall forthwith cause to be registered in a book in the Form D of Part III of the Schedule to be kept in his office for that purpose (hereinafter referred to as the “Hindu Marriage Register Book”) the particulars of every such certificate and declaration, and every entry so made shall be dated on the day on which it is so registered and shall be signed by the Registrar-General.

(2) Upon such registration in the office of the Registrar-General and upon payment of the prescribed fee, the Registrar-General shall issue and transmit to the parties to the marriage a certificate of registration of the marriage in the Form E of Part III of the Schedule. In the case of a marriage solemnized after the 19th December, 1957, he shall send a notification of the fact and date of registration to the marriage officer by and before whom the marriage was solemnized, who shall thereupon enter such particulars in the space provided for the parties in the counterfoil of the Hindu Marriage Certificate Book.

Legitimacy of children.

13. The children of any Hindu marriage registered in accordance with the provisions of this Act shall be legitimate, and in the case of children of a prior marriage registered by virtue of sections 11 and 12 who were born

before the date of such registration, the date of legitimation shall be the date of registration of such prior marriage under the sections aforesaid :

Provided that the provisions of this section shall not operate to alter the status of any child deemed legitimate by virtue of the provisions of any other enactment.

14. The Legitimation Act shall apply *mutatis mutandis*, to persons legitimated by reason of registration under the provisions of this Act. Application of Legitimation Act.

15. The Registrar-General may correct any clerical error in any certificate or declaration of Hindu marriage filed in his office, and in the Hindu Marriage Register Book, and shall authenticate every such correction by his signature and the date of such correction. Correction of clerical errors in Register Book.

16.—(1) Upon payment of the prescribed fees, the Registrar-General shall at all reasonable times allow searches to be made in the Hindu Marriage Register Book and shall give certified copies therefrom. Searches in Register and copies of entries.

(2) Any copy certified under the hand of the Registrar-General shall be deemed to be a correct copy of any entry in the Hindu Marriage Register Book and shall be admissible as evidence of the registration of the marriage to which it relates in all Courts or before any person now or hereafter having by law or consent of the parties authority to hear, receive and examine evidence.

17. All prescribed applications, certificates and entries in the Hindu Marriage Register Book shall be in the English language. Use of English language.

18. Every person who unlawfully or maliciously destroys or injures, or causes to be destroyed or injured, any Register Book or any licence, certificate, declaration, entry or state- Destroying or injuring Register Book, etc.

ment mentioned in this Act, or any certified copy of translation thereof respectively, shall be guilty of felony, and liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding three years.

Unlicensed person performing functions of marriage officer.

19. Any person who without being duly licensed as a marriage officer—

- (a) knowingly and wilfully solemnizes any marriage purporting to be a marriage under the provisions of this Act; or
 - (b) knowingly and wilfully makes or signs any certificate or signs any declaration required by this Act to be made or signed by a marriage officer,
- shall be guilty of felony and liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding three years.

Disposal of fees.

20. All fees received by the Registrar-General under this Act shall be paid by him into the Consolidated Fund.

Regulations.

21.—(1) The Minister may make regulations generally for the better carrying out of the provisions of this Act.

(2) Regulations made under subsection (1) may, without prejudice to the generality of the power thereby conferred, prescribe—

- (a) the form of any certificate, declaration, Register or other document required for the purposes of this Act;
- (b) the conditions under which Registers or other documents may be inspected;
- (c) the fees to be paid in respect of anything required or permitted to be done under the provisions of this Act, and provision for their remission on account of the poverty of the parties or for other good reason:

Provided that, until varied or revoked by any such regulations, the regulations contained in the Schedule shall be in force. Schedule.

22. Nothing in this Act contained shall be construed to prevent or disable any Hindu from contracting a marriage according to the general law of the Island. Civil marriages permissible.

HINDU MARRIAGE

SCHEDULE

(Section 21)

PART I

General

1. These Regulations may be cited as the Hindu Marriage Regulations, 1957.

2. In these Regulations the expression "Act" means the Hindu Marriage Act.

3. The fees set out in Part II shall be payable in respect of the matters therein specified.

4. The Forms set out in Part III shall be the forms to be used in respect of the matters therein specified.

PART II

Fees

(a) For solemnizing a marriage (such fee to be payable to the marriage officer)	25c.
(b) For issuing a certificate of registration of marriage	25c.
(c) For every search in Hindu Marriage Register Book	10c.
(d) For every certified copy of an entry in Hindu Marriage Register Book	25c.

PART III

(Section 3)

FORM A

THE HINDU MARRIAGE ACT

Licence to be a Marriage Officer

A.B., being a priest of the
the Hindu religion, and who resides at _____ in
the parish of _____ is hereby licensed as a marriage
officer for the purposes of the Act.

(Sgd).....

(Section 10)
FORM B
THE HINDU MARRIAGE ACT
The Hindu Marriage Certificate Book

No. _____

C O U N T E R F O I L		C E R T I F I C A T E			
<p>1. (a) Parish (b) Date and place of marriage (c) Husband's name and age (d) Wife's name and age (e) Witnesses' names— (i) (ii) (f) Consent of marriage was given by in writing/in person* Signature of Marriage Officer Certificate forwarded to Registrar-General at _____ day of _____ 19 _____</p>					
<p>2. Signature of Marriage Officer I, _____ of _____ under the Act do hereby certify that a marriage between the abovementioned parties in accordance with the Hindu law of marriage and the Hindu Marriage Act, was solemnized by me on the _____ day of _____, 19 _____ (and that the consent of _____ to the said marriage was given in writing/in person).*</p>		<p>Signature or mark of parties to marriage: (i) (ii)</p>	<p>Signature of Witnesses: (i) (ii)</p>	<p>Occupation of husband and address</p>	<p>Name of father of husband and address</p>
<p>3. Signature of Marriage Officer †To be filled in by Marriage Officer when notified by Registrar-General.</p>		<p>Date and place of marriage</p>	<p>Husband's name, age and religion</p>	<p>Wife's name, age and religion</p>	<p>Name of father of wife and address</p>

*Delete if not applicable

.....
Signature of Marriage Officer

.....
Signature of Registrar-General

(Section 11)

FORM C

THE HINDU MARRIAGE ACT

Declaration for the purposes of Section 11

Date or approximate date and place of marriage	Husband's name and age at date of marriage	Wife's name and age at date of marriage	Names and sex of children with date of birth in each case	Names of children who are dead, with date and place of death

A. I, _____ of _____ and I, _____ his wife respectively, do solemnly and sincerely declare as follows—
 1. That the details of the marriage set out above are true and that such marriage was in accordance with the Hindu law relating to marriage.
 2. That at the date of such marriage we were domiciled in the Island.
 3. That such marriage is still subsisting according to the Hindu law of marriage at the date hereunder written.

Declared at _____ day of _____ 19____, before me.
 Signature or mark of parties:
 (i)
 (ii)

.....
 Marriage Officer
 Signature of witnesses who identify the parties:
 (i)
 (ii)

[The inclusion of this page is authorized by L.N. 480/1973]

FORM C (contd.)

THE HINDU MARRIAGE ACT

Declaration for the purposes of Section 11 (contd.)

B. I.

- 1. That the parties to the marriage specified above are desirous of registering such marriage under the Act do hereby certify as follows—
- 2. That I have enquired into the circumstances of such marriage and to the best of my knowledge, information and belief, the details specified above are true and such marriage was in accordance with the Hindu law of marriage and is still subsisting between the said parties at the date hereunder written.

Dated this day of , 19 .

.....
Marriage Officer

Dated this day of , 19 , and countersigned by

.....
Registrar-General

(Section 12)

FORM D

THE HINDU MARRIAGE ACT

The Hindu Marriage Register Book

Registered No.	Parish					Signature of Registrar-General and date		
	Date and place of marriage	Husband's name, age and religion	Occupation of husband and address	Wife's name, age and religion	Name of husband and address		Name of father of wife and address	Name of marriage officer

N.B. In the case of registration of a marriage in existence prior to the commencement of the Act the details to be entered shall be those appearing in the Declaration and Certificate in Form C.

